

1 IN THE UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MISSOURI
3 WESTERN DIVISION

4 KAREN BACKUES KEIL,) No. 18-06074-CV-W-BP
5 LYNNSEY CHRISTIE BETZ,) 18-06079-CV-W-BP
6 ASHLEY OLSEN ZIESER, and) 18-06103-CV-W-BP
7 TRENADY GEORGE,) 19-06161-CV-W-BP
8))
9) April 25, 2022
10) Kansas City, Missouri
11) CIVIL
12))
13 EDWARD BEARDEN,) VOLUME I
14) (Pages 1-103)
15))
16) Defendant.
17)
18)

19 TRANSCRIPT OF JURY TRIAL

20 BEFORE THE HONORABLE BETH PHILLIPS
21 UNITED STATES DISTRICT JUDGE

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1 APRIL 25, 2022

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3 (The following proceedings were had in the courtroom
4 out of the presence of the jury panel:)

5 THE COURT: Good morning. We're here in the case of
6 Keil, et al., versus Bearden, Case No. 18-6074. Could counsel
7 please enter their appearance?

8 MS. McGRAUGH: Susan McGraugh for the plaintiffs,
9 Your Honor.

10 THE COURT: Thank you.

11 MR. ROEDIGER: Brendan Roediger for the plaintiffs,
12 Your Honor.

13 THE COURT: Thank you.

14 MS. SNOW: Jenifer Snow for plaintiffs, Your Honor.

15 MR. AMMANN: Good morning, Your Honor. John Ammann
16 for the plaintiffs.

17 THE COURT: Thank you.

18 MR. TAULBEE: Nicolas Taulbee on behalf of the
19 defendant.

20 MS. ROTHERMICH: Abbie Rothermich on behalf of the
21 defendant.

22 MS. HARRIS: Cara Harris on behalf of the defendant.

23 THE COURT: Thank you. Well, we should have a panel
24 ready, hopefully, by 9 o'clock here in a few minutes. What
25 I've decided to do is pick the jury down in the jury assembly

1 room so that they can be spaced out. Which means, then, that
2 when doing your jury selection, I think it's easiest if you
3 remain seated because -- I don't know if you've been down there
4 yet, but there's two long tables that each side will be seated
5 at, and if you are standing, I think it's going to be difficult
6 to speak into a microphone and for the panel to be able to hear
7 you. So during that process -- I realize for some it's a
8 little unnatural to remain seated and pick a jury, and I
9 apologize for that. I just think that's the best way -- best
10 way to do jury selection down there.

11 After we pick the jury, which, given the time limits
12 on jury selection, I would assume would be 12:30, 1 o'clock,
13 the jury will come up here, and Shauna is then going to talk
14 with the jury and determine how those eight people, how
15 comfortable those eight people are not wearing masks and seated
16 in the jury box, therefore, with limited social distancing.
17 She's going to ask each of them to anonymously put on a card
18 whether or not they want to wear masks and whether or not they
19 are comfortable being in the jury box. If it's not unanimous,
20 then what we'll do is have the jurors split between the jury
21 box and back there so that those that want to remain socially
22 distanced can.

23 For what it's worth, other judges have been using
24 this same system recently, and all the jurors have been
25 comfortable sitting in the jury box. We'll see what this

1 unknown group of eight individuals decide. But, to me, that's
2 a way to make sure that those who are not comfortable not
3 social distancing can still participate in the trial.

4 So after we finish the jury selection, I'm going to
5 ask that you wait in the jury room -- or the jury assembly room
6 for a few minutes so that they can come up here, see what the
7 setup is and then vote, quote, unquote, before then going off
8 to lunch.

9 So that's really all of the issues or kind of
10 day-of-trial modifications that I've made. Before we go down
11 to the jury room, are there any issues that either of the
12 attorneys would like to take up?

13 MS. McGRAUGH: Your Honor, this is Susan McGraugh,
14 for the record.

15 One of our plaintiffs, Lynnsey Betz, is coming from
16 Daviess County Jail. As of about 15 minutes ago, she had not
17 arrived, and we are requesting that the Court consider waiting
18 on the voir dire until she is able to be present.

19 THE COURT: Do we know where she is or why she's not
20 here yet?

21 MS. McGRAUGH: Your Honor, the marshals told me they
22 did not even know she was coming.

23 THE COURT: Do we know that she is coming?

24 MS. McGRAUGH: They got the writ, so I didn't think
25 to call and confirm, and I apologize for that.

1 THE COURT: Shauna, have you heard anything?

2 COURTROOM DEPUTY: I have not, but I have
3 confirmation they received the writ and processed it.

4 MS. McGRAUGH: We have clothing for her that we left
5 with them. I would be glad to go back down and see if they
6 have any more information.

7 THE COURT: I think that if they had any
8 information, the marshal's service probably -- have you been in
9 touch with them this morning, the marshal's service?

10 COURTROOM DEPUTY: I have not.

11 THE COURT: Shauna will give them a call and see
12 what the marshals know.

13 MS. McGRAUGH: Thank you.

14 THE COURT: So what is the thought regarding how
15 long the trial will take? And when does plaintiff expect to
16 conclude your case-in-chief?

17 MS. McGRAUGH: I believe Wednesday we are planning
18 on concluding, Your Honor.

19 THE COURT: End of the day Wednesday or --

20 MS. McGRAUGH: No, Your Honor, by lunchtime.

21 THE COURT: By lunchtime? Your co-counsel looks
22 surprised.

23 MS. McGRAUGH: You can see him, I can't.

24 MR. ROEDIGER: There's hope and there's what we
25 should plan. I think it's more realistic to say that we will

1 be done Wednesday, and that could be in the afternoon.

2 THE COURT: Okay. And how long does the defendant's
3 case-in-chief, do you expect it to be?

4 MR. TAULBEE: I would expect no more than a day,
5 Your Honor.

6 THE COURT: Okay.

7 MR. TAULBEE: And I think that's long. I mean, I
8 would think no more than a day, probably a little over half a
9 day maybe.

10 THE COURT: So you think that we could conclude the
11 case by Thursday, Thursday afternoon? The evidence by
12 Thursday, Thursday afternoon?

13 MR. TAULBEE: I would really hope so, Your Honor.

14 THE COURT: Okay. And do you agree with that
15 assessment?

16 MS. McGRAUGH: I do, Your Honor.

17 THE COURT: I ask that because that is, to me, part
18 of the equation as to whether or not we wait for the plaintiff
19 to get here, if we can still get the case done by Friday.
20 Let's find out kind of where she is and what's going on with
21 that, and then I'll make a decision based upon what information
22 we have on that.

23 Is there any other topic that the plaintiff would
24 like to discuss at this point? Plaintiffs?

25 MS. McGRAUGH: Just briefly. I spoke to Mr. Taulbee

1 about this. The plaintiff who is coming in is confined on new
2 cases and a probation revocation on an old case, and I would
3 request that the Court bar questioning about the new cases or
4 the fact that she's incarcerated.

5 THE COURT: Mr. Taulbee, what's your position on
6 that issue?

7 MR. TAULBEE: Your Honor, I don't think we intend to
8 ask about any new cases. I believe she's pled guilty to two
9 new cases. I think we should be able to ask about the ones
10 she's pleaded guilty to, but not about her confinement in the
11 jail or the cases that don't have --

12 THE COURT: Do you agree -- given my previous
13 rulings regarding cross-examination on or evidence of prior
14 convictions, do you agree that the two new cases that she's
15 pled guilty to are appropriate?

16 MS. McGRAUGH: Yes, I do, Your Honor.

17 THE COURT: Okay. Any other topics that you'd like
18 to discuss?

19 MS. McGRAUGH: No, ma'am.

20 THE COURT: Anything on behalf of defendant?

21 MR. TAULBEE: I just have a question, Your Honor.
22 If the jury chooses to be in the jury box, are spectators going
23 to be in a different courtroom or --

24 THE COURT: Regardless, we're just going to have
25 spectators on one side, jury on another, rather than having a

1 feed to another courtroom. So if they do want to be in the
2 back, which is why we have that television set up the way that
3 it is, it can be turned around, we could -- what we typically
4 do, ages ago, pre-Covid, is we would have the bigger TV over
5 here, and so I leave it to the parties as to how they would
6 prefer to have the TVs set up. But regardless, we'll have the
7 jury on that side and spectators on that side.

8 MR. TAULBEE: And then sort of the same thing about
9 what the jury decides, will that dictate whether we need to
10 wear masks or not?

11 THE COURT: No, I'm not going to require anyone else
12 to wear masks, just if they want to wear a mask. I'm not going
13 to require -- if one person wants to wear a mask, I'm not going
14 to require all of the jurors to wear masks. That person can
15 then -- that person or persons can be socially distanced in the
16 back. But, no, I'm not going to require people to wear masks
17 at this time.

18 MR. TAULBEE: Okay. Thank you.

19 MR. ROEDIGER: Your Honor, I would ask just very
20 briefly if I could approach with counsel for the defense to
21 discuss one matter?

22 THE COURT: I assume this is on the record?

23 MR. ROEDIGER: It can be.

24 THE COURT: Then we probably need the white noise.

25 (Counsel approached the bench and the following

1 proceedings were had:)

2 THE COURT: Just so you know, when the white noise
3 comes up, this microphone comes on. So don't put papers or
4 things on the microphone because then it's amplified for the
5 court reporter.

6 MR. ROEDIGER: I told --

7 (Reporter interruption.)

8 THE COURT: As a result, then, you can talk in a
9 normal voice.

10 MR. ROEDIGER: Okay. I'm losing my voice, which is
11 part of the problem, so I'll speak up.

12 I talked to Mr. Taulbee last week. My son is a
13 newborn, and he's having surgery at Children's Mercy today.
14 It's not a previously planned surgery, and I won't give the
15 whole story, but it's serious enough that today I would like
16 permission to absent myself.

17 THE COURT: Yeah, I have no problem with that.

18 MR. ROEDIGER: Just for the Court to know I'm not
19 being disrespectful, and I've talked to Mr. Taulbee.

20 THE COURT: Sure. I have no problem with that.
21 Like I said before, I have no problems with counsel leaving the
22 courtroom and coming back in in the middle. As long as it's
23 not your witness, I have no problem with you leaving.

24 MR. ROEDIGER: It's possible it would be the whole
25 day.

1 THE COURT: That's fine. Again, I have no problem
2 with that.

3 MR. ROEDIGER: Thank you, Your Honor.

4 THE COURT: So anything else?

5 MR. ROEDIGER: No, thank you.

6 THE COURT: Okay.

7 (The following proceedings were had in open court:)

8 THE COURT: Okay. If there's nothing else, then we
9 will contact the marshals to determine if they know anything
10 regarding the witness and we will -- hopefully, we'll learn
11 something and we'll start at 9:00. If not, we'll be back out
12 and let you know what the decision is.

13 (A recess was taken at 8:48 a.m. Jury selection was
14 conducted, after which the following proceedings were had in
15 the courtroom out of the presence of the jury beginning at
16 2:06 p.m.:)

17 THE COURT: Good afternoon. Are we ready to bring
18 the jury in?

19 MS. McGRAUGH: Yes, Your Honor.

20 MR. TAULBEE: Yes, Your Honor.

21 THE COURT: Okay.

22 MS. McGRAUGH: Judge, am I correct that we can use
23 this podium for opening?

24 THE COURT: Yes.

25 MS. McGRAUGH: Thank you.

1 (The following proceedings were had in the courtroom
2 in the presence of the jury:)

3 THE COURT: Please be seated. Ladies and gentlemen
4 of the jury, when you come in, go ahead and be seated. You
5 initially stood in deference to the role that I played in the
6 trial; but now, since you've been actually seated as jurors, we
7 stand in deference to the role that you play in the trial. So
8 when you come in, feel free to be seated.

9 I also forgot to mention, I apologize, the cafeteria
10 situation is not ideal. Unfortunately, our cafeteria in the
11 building became a victim of Covid and we just didn't have
12 enough people in the building for such a long period of time
13 that they weren't able to keep it open. They're transitioning
14 it to a self-serve, but it's taken much longer than what we
15 originally thought. So to the extent an hour is not long
16 enough for you to have lunch, knowing that you're -- No. 1,
17 feel free to bring lunch with you; but, No. 2, if it takes a
18 little bit longer, just let me know, and we can modify how long
19 we actually take for lunch breaks for the remaining few days.

20 So what we're going to do now is I have a set of
21 instructions that I'm going to read you for things -- for you
22 to keep in mind during the trial, then we'll move into opening
23 statements and actually hear some evidence today.

24 Earlier this morning, you took an oath, and that was
25 an oath to answer the questions that were propounded to you

1 truthfully and thoroughly. Now that you're the actual jurors
2 in this case, we have a slightly different oath that we would
3 like for you to take. So if you could please stand, and Shauna
4 will give you that oath.

5 (The jury was sworn by the courtroom deputy, and the
6 opening instructions were read by the Court.)

7 THE COURT: That concludes the initial instructions
8 in this case. Counsel for plaintiff, are you ready for opening
9 statement?

10 MS. McGRAUGH: Yes, I am, Your Honor.

11 THE COURT: Okay. You may proceed.

12 MS. McGRAUGH: May it please the Court, counsel.

13 Good afternoon. The case that you're about to hear
14 is about sexual assault, and the evidence may shock and alarm
15 you. You will hear evidence of sexual assault, sexual
16 harassment, and rape. You will hear how one man, a man who
17 considered the women's prison to be his personal hunting
18 ground, put these women through forcible sexual assault, and
19 the damage that that did to them. That man is Edward Bearden.

20 Now, you're going to hear evidence that
21 Mr. Bearden's sexual abuse of each of the women followed a
22 general pattern. Step 1 was grooming, giving the women
23 compliments, sodas, candy, favors; step 2, sexual harassment,
24 comments about their bodies, their breasts, and their buttocks;
25 step 3, isolating the women, maneuvering them into closets and

1 other small spaces; and, 4, sexually assaulting and raping
2 these women.

3 During this trial, you're going to hear evidence
4 about prison life. You'll hear how the plaintiffs in this
5 case, Ashley Zieser, Karen Keil, Lynnsey Betz, and Trenady
6 George, accepted their prison sentence, and they accepted the
7 fact that they were going to be isolated from their children,
8 from their families, and from their communities.

9 And they will tell you that when they got to the
10 penitentiary, they sought to better themselves through
11 education, job training, and work. But they will tell you the
12 actions of Edward Bearden, who raped, sodomized, and sexually
13 assaulted them, caused them immense physical and mental pain.
14 They are going to tell you that at the time this abuse
15 happened, they did not report Edward Bearden to the prison
16 until they were in a position where they were safe from
17 whatever he could bring down on their heads.

18 I'm going to take a minute now to review briefly
19 what the testimony of each woman will be because you will need
20 to consider each case individually.

21 First, Ashley Zieser. She was in Chillicothe
22 women's prison in the state of Missouri from 2014 to 2017. She
23 will tell you that in 2015, Edward Bearden began making
24 sexually suggestive and harassing comments to her at the
25 prison. She will tell you that this behavior escalated, and it

1 escalated to him coming up behind her in a small room, slipping
2 his hands under her work pants and under her underwear, and
3 forcibly penetrating her vagina with his fingers. And that it
4 hurt.

5 She will tell you a week later, Edward Bearden again
6 maneuvered her into a small space, a small cameraless space,
7 and again forcibly put his fingers into her vagina, injuring
8 both the inside and outside tissues of the vagina, causing
9 pain, pain upon urination, and bleeding.

10 The last time that Edward Bearden attempted to
11 sexually assault Miss Zieser, he attempted to make her perform
12 oral sex on him, attempting to put his penis into her mouth.
13 Ashley will tell you that after this happened, she went to a
14 caseworker, desperate to receive a transfer out of that job
15 assignment, and she was transferred away from Edward Bearden,
16 and the assaults stopped.

17 Ashley will tell you how the pain and trauma of that
18 sexual assault continued to haunt her life after she left
19 Chillicothe. She will tell you how she suffers from panic
20 attacks, post-traumatic injuries, and anxiety; how she
21 developed a fear of men, especially strange men, but also of
22 her own husband; that she began to be unable to give or receive
23 physical contact from any person, including her own children.
24 But she will also tell you that she is determined to thrive.

25 The second woman -- another woman you will hear from

1 is Lynnsey Betz. She's wearing the royal blue sweater.
2 Lynnsey was in Chillicothe from 2014 to 2016 for burglary and
3 stealing. Lynnsey will tell you that she managed to get a job
4 in vocational technology, which she'll refer to as vo-tech.
5 It's a building in the prison, and we have maps we're going to
6 show you where all of these things happened.

7 And that she enjoyed her job, she enjoyed the women
8 she worked with, she liked working with her supervisor,
9 Mrs. Gilgour. But one week Mrs. Gilgour went on vacation, and
10 the person who was ordered to fill in for Mrs. Gilgour was
11 Edward Bearden.

12 She will tell you that her contact with Mr. Bearden
13 began with compliments, compliments about her buttocks. He
14 would say to her, "I like the way your ass moves." She will
15 tell you how he left contraband items for her, a Mountain Dew
16 and some candy, in a room where she was working. Those items
17 she is forbidden to have, and she disposed of them quickly
18 before she got caught.

19 The first sexual assault Lynnsey will tell you she
20 suffered was when she was going into a small cleaning closet
21 where they kept the chemicals for cleaning and a shop vac. And
22 that she had to be escorted to this closet by Edward Bearden,
23 and that when she got into the closet, also one of the few
24 places without a camera, he pushed her up against the wall
25 forcibly and, without her consent, grabbed her vagina through

1 her clothing, forcefully, and struck her head against the wall
2 hard enough to get -- cause swelling. He put his hand over her
3 mouth and reached one hand down to unzip his pants. He forced
4 his hand into her pants under her work clothing, under her
5 underwear, and forced his fingers into her vagina.

6 She'll tell you that this was extremely painful.
7 She'll tell you that her vagina was injured and that she had
8 blood and pain for over a week afterwards from the injuries, as
9 well as a lump on the back of her head from the force used to
10 shove her into the side of the closet.

11 She will further tell you that there were
12 extraordinary injuries to her mental health. Lynnsey Betz is a
13 survivor of a previous rape, and then had this physical sexual
14 assault on top of it that further degenerated her mental
15 health. She was diagnosed with post-traumatic stress disorder,
16 anxiety, and fear, severe night terrors that cause her memories
17 to replay again and again.

18 But Lynnsey will also tell you that she is not
19 defeated, that her husband and her child Blaze give her hope to
20 keep moving forward.

21 You will also hear from Karen Keil. Karen was in
22 Chillicothe from 2011 to 2017 on an embezzlement charge. She
23 will tell you how the sexual abuse she suffered from Edward
24 Bearden began in 2011 when he would single her out for
25 pat-downs leaving the cafeteria. He would linger on her

1 breasts and her buttocks as he patted her down.

2 Now, like in the other two cases, those sexual
3 assaults escalated, and in 2012, Edward Bearden pushed her
4 against a wall in the prison laundry room and stuck his tongue
5 in her mouth. He also put his fingers forcefully without
6 consent into her vagina. Beginning in 2012 and up until 2015,
7 Edward Bearden sought out Karen Keil and raped her over 20
8 times. She'll tell you the rapes occurred in a storage room in
9 the back of the prison. She'll tell you that during these
10 rapes, Edward Bearden, without consent and very forcefully,
11 pushed his erect penis into her vagina and that she suffered
12 extreme pain after each rape, that it was painful to urinate
13 after she was raped, it was painful to walk, her vagina was
14 sore and tender for up to a week afterwards. And she'll tell
15 you that as a result of those experiences, she also has
16 suffered extreme mental trauma.

17 But Karen is going to tell you that she's worked to
18 put her life back together. She has moved, she is gainfully
19 employed and living with her husband, and she's determined not
20 to be stopped.

21 The last of these plaintiffs you will hear from is
22 Trenady George, who is the woman in the maroon sweater.
23 Trenady was in Chillicothe from May 2015 to 2017 for identity
24 theft and, like the other women, she got to Chillicothe,
25 learned to adjust, and decided to make the best out of the

1 situation.

2 She was very active in the sports programs. She
3 enrolled in the cosmetology school because, although she had
4 jobs before she got to prison, she has a bachelor's and two
5 other degrees, that she had always wanted to open her own
6 children's beauty salon, and she will tell you about that. So
7 she determined, while she was in the Department of Corrections,
8 to earn her way into the cosmetology school.

9 Before she got into the school, she was working in
10 the canteen. And who would come by whenever he could but
11 Edward Bearden, to stare at her, flatter her, to compliment her
12 buttocks, and to ask her to bend over and pick up a box again
13 so he could get a better view.

14 This behavior, of course, then escalated into
15 serious physical assaults. She'll tell you how she worked
16 cleaning the cosmetology classroom, and we'll show you on a
17 map. Again, a room with no camera. That she had to obtain her
18 cleaning materials, and that Edward Bearden would follow her
19 into the room, place his hand on her shoulder, force her onto
20 her knees, take his penis out of his pants and force it into
21 her mouth, and that he would stay that way until he ejaculated
22 into her mouth. This was done forcefully and without her
23 consent. And when he was done, he would take a rag and throw
24 it at her and tell her, "Clean yourself up."

25 But Trenady is going to tell you that, despite the

1 mental and physical, very real physical harm she suffered as a
2 result, that she has goals and she's moving ahead on her goals.
3 And she's with her family, and she's determined to move
4 forward.

5 You're going to hear other witnesses besides our
6 women. You're going to hear a woman named Teri Dean, who was
7 in Chillicothe from July 2012 to October 2018. She will tell
8 you she worked in a barber shop, which is where the guards
9 could go get their hair done, and that Edward Bearden would go
10 in there on a regular basis. And when Teri Dean would cut his
11 hair, he would rub his head and his face in her breasts and
12 lean his body against her breasts and run his hands up her leg
13 and touch her vagina.

14 She will tell you that Bearden also followed her
15 into a closet to take an opportunity to run his hands over her
16 and that he did this often, always over her clothing. And she
17 will also tell you about the fallout from that abuse.

18 Now, some of our evidence that you're going to hear
19 is evidence from Edward Bearden. You'll hear that he's
20 testified under oath that he did not sexually assault, rape, or
21 sodomize any of the women and that he denies these allegations.
22 He made those statements under oath. He made two statements.
23 He made one to me in November of 2018, and in 2021 he made
24 another one, and you will hear about the evolution of
25 Mr. Bearden's statements. You will hear that in the

1 deposition, that's the sworn statement he gave --

2 MR. TAULBEE: Your Honor, I'm going to object.

3 THE COURT: Could counsel please approach?

4 (Counsel approached the bench, and the following
5 proceedings were had:)

6 MR. TAULBEE: His deposition is not substantive
7 evidence, Your Honor.

8 THE COURT: But the statements are. I don't know
9 how a statement would not be substantive evidence.

10 MR. TAULBEE: She can talk about what his testimony
11 is going to be, but I don't think she can talk about --

12 THE COURT: Not frame it in terms of the deposition?

13 MR. TAULBEE: Yeah.

14 MS. McGRAUGH: We've stipulated to the deposition
15 evidence, though, Judge.

16 THE COURT: Just reframe it to say this is his
17 testimony.

18 MS. McGRAUGH: Yes, ma'am.

19 (The following proceedings were had in open court:)

20 MS. McGRAUGH: The testimony will be that
21 Mr. Bearden, under oath, originally denied knowing Karen,
22 Ashley, and Lynnsey, but that as the deposition progressed, you
23 will hear testimony that he began to slip and recall statements
24 and conversations with Karen Keil as the questioning went
25 further, exact conversations that he had had.

1 You will also hear testimony that at that initial
2 deposition, he was asked if he had more than one cell phone
3 when he was in Chillicothe, and he said no. You will hear that
4 later on, a phone number that he had given to Trenady George
5 was discovered to have been to an anonymous Tracfone that he
6 owned and purchased for the purpose of speaking to the women in
7 prison. The women in prison aren't allowed, and the guards are
8 certainly not allowed to communicate privately. You will hear,
9 when confronted, that Mr. Bearden admitted he had, in fact, had
10 two phones, and he had used that phone to call Trenady George
11 under an assumed number.

12 You will hear that after these allegations surfaced,
13 Mr. Bearden retired, three months before his 25th anniversary
14 and pension with the Missouri Department of Corrections.

15 There are going to be two expert witnesses that are
16 going to talk to you to try to help clarify what you're
17 hearing. The first is a doctor named Melissa Piasecki. She's
18 the dean of the medical school at University of Nevada, Las
19 Vegas. She is an expert in women's psychological/psychiatric
20 ailments. She's a psychiatrist with multiple years of
21 experience working with women who have been sexually abused,
22 and she will tell you that she spoke to these women, she will
23 tell you she reviewed their records, she will tell you she
24 reviewed records of the mental health treatment when they got
25 out of prison, and she will tell you that the trauma they

1 suffered from being sexually assaulted and raped by Edward
2 Bearden is very real and very debilitating, and it now has and
3 will continue to have a lasting impact on their health.

4 The second expert you're going to hear from is a
5 woman named Dora Schriro. Dora Schriro was the Director of the
6 Missouri Department of Corrections. She ran these prisons,
7 including Chillicothe. She's got a lifetime of experience
8 talking about what goes on in prisons.

9 She will tell you about the life of women in
10 prisons. She will tell you the role that the guards play in
11 determining how well a woman fares while she's in prison. She
12 will talk to you about why women in prison, like our women, do
13 not report sexual abuse when it occurs. She will tell you
14 about the hole, what the ladies call the SHU, administrative
15 segregation. She will tell you that if you report being
16 sexually abused, you are immediately placed in administrative
17 segregation, you lose your visits, you can't take your pictures
18 of your kids, you can't take your cards, you can't take your
19 letters. You can't take the things you've earned, and you are
20 removed from those hard-to-earn jobs and programs and forced to
21 start over once the investigation is complete.

22 She'll tell you that guards like Bearden know every
23 inch of that prison, including where the cameras are and where
24 the cameras aren't. She'll tell you there are no records that
25 track Mr. Bearden's movements through the prison on those days.

1 You will hear the women talk about why they didn't
2 report, because they feared losing their jobs, their visits,
3 feared being sent to the SHU if they kept -- if they reported
4 these while they were -- excuse me -- assaults.

5 You will hear that the process of retelling the act
6 of being raped, the act of being forced to perform oral sex on
7 someone has caused them great distress and that every time they
8 have to retell it, they experience that distress all over
9 again. And they will tell you, "I have had to give a
10 statement, I have had to retell and relive this, and sometimes
11 I stumble. Sometimes I stumble." But that that stumbling
12 comes from the stress of having to stand in front of people
13 they don't know and describe being raped in detail.

14 At the end of all of the evidence, I will ask you to
15 find in favor of these women and to award them damages to
16 compensate them for the horrors that this man wreaked on their
17 lives. Thank you for your time.

18 THE COURT: Counsel for defendant ready to give your
19 opening statement?

20 MR. TAULBEE: Yes, Your Honor. May it please the
21 Court.

22 THE COURT: You may proceed.

23 MR. TAULBEE: Ladies and gentlemen, this did not
24 happen. This case --

25 MS. McGRAUGH: Objection, Your Honor, argumentative.

1 THE COURT: Overruled.

2 MR. TAULBEE: This case is about who you believe,
3 what you believe. Karen Keil, Lynnsey Betz, Ashley Zieser, and
4 Trenady George were in prison at Chillicothe Correctional
5 Center. They were in prison for crimes like fraud, forgery,
6 burglary, stealing, embezzlement, identity theft, assault on a
7 law enforcement officer. Several of those are crimes of
8 dishonesty.

9 Their stays at Chillicothe overlapped. Those aren't
10 four strangers sitting there, ladies and gentlemen. In a
11 prison of over 1400 offenders, they're all connected. They all
12 know each other from recreation. Karen Keil was their
13 instructor. Before Lynnsey Betz and Ashley Zieser filed their
14 lawsuits, they spoke with Karen Keil. Karen Keil spoke with
15 Trenady George in November and December of 2017, shortly after
16 Ms. George got out of Chillicothe, shortly before Miss Keil
17 reported her accusations to the Department of Corrections for
18 the first time. This did not happen. That's what Edward
19 Bearden will tell you.

20 I want to talk to you a little bit about Edward
21 Bearden. He began working at Chillicothe Correctional Center
22 in 2008. He worked there for nearly ten years. He retired in
23 September of 2018. He was a Corrections Officer I, but he was
24 also a field training officer, which meant he assisted with the
25 on-the-job training for the new employees, showing them the

1 proper procedures for various assignments or posts within the
2 prison to ensure the safety and security of the facility. And
3 he took pride in that role.

4 Before 2018, Mr. Bearden had never been accused of
5 anything like this while at Chillicothe Correctional Center,
6 nothing until Karen Keil accused him in January of 2018, nearly
7 a year after she left Chillicothe, and then her and her
8 students filed these lawsuits.

9 From 2014 until he retired, Edward Bearden worked
10 the day shift as a utility officer, which meant he could be
11 assigned throughout the prison wherever, whatever post needed
12 coverage that day. So his assignments were unpredictable. But
13 just because he was assigned throughout the prison doesn't mean
14 he could go wherever he wanted. Because when you were assigned
15 to a post, you stayed at your post unless you're assigned
16 elsewhere, because the safety and security of the institution
17 is of the utmost importance, and a corrections officer being
18 where they're not supposed to be or a corrections officer not
19 being where they are supposed to be is a safety and security
20 issue. So is familiarity with inmates and so is sexual
21 contact, or really any physical contact with inmates.

22 Chillicothe Correctional Center is a busy place.
23 There are a lot of inmates. There are a lot of people. The
24 areas of the institution that you're going to hear about are
25 busy places.

1 You'll hear about the recreation area. It's the hub
2 of inmates' social activity. It has the chapel, the barber
3 shop, the lieutenants and the captains have their offices
4 there. There are institutional activities coordinators. There
5 are people working in all of those parts of the prison.

6 It also has the gymnasium. At one end of the
7 gymnasium, there are exercise machines, weight machines, there
8 are inmates using these facilities. There's an exercise room
9 where they do group exercise classes. There are inmates
10 playing basketball, playing other activities. There are tables
11 at the other end of the gymnasium where offenders can check out
12 games or cards and play games or cards, they can sit around and
13 socialize. It's a busy place with a lot of people, with a lot
14 of staff.

15 The housing units are busy places. Most of the
16 housing units have four wings, around 64 offenders. They have
17 what's -- they have three to five corrections officers working
18 in those wings. And they're watching the offenders, and
19 they're watching each other to make sure everybody is safe.

20 There's also what's called classification staff, and
21 they work in what they refer to as the E-Wing or the back
22 offices. And the classification staff, those are the people
23 who work with the offenders on a one-on-one basis on a daily
24 basis to get them ready to leave the institution. And so the
25 case managers will have open office hours for the offender,

1 they'll have meetings with the offenders. So there will be
2 offenders in line to meet with their case manager. There are
3 people moving about. It's unpredictable what their movements
4 are. Chillicothe has an open campus, so they're not just on
5 lockdown 23 hours a day or anything like that.

6 The vocational-education building is a busy place.
7 There are four to five classes of 15 to 20 offenders each.
8 There's teachers, there's a corrections officer assigned there,
9 there's the head of vocational-education and her secretary, and
10 staff are expected and obligated to report it if they see
11 something inappropriate. And they know that's the expectation,
12 or they believe that they'll get fired, they'll lose their job
13 if they don't, because safety and security of the institution,
14 the staff, and the inmates are of the utmost importance.

15 And ladies and gentlemen, Chillicothe Correctional
16 Center has a lot of cameras, a lot of them. And you're not --
17 you're probably wondering. You're not going to see any video
18 because the department only keeps video for around 30 days.
19 They have to have a reason to keep it beyond that, and nobody
20 reported anything amiss here, so they didn't have any reason to
21 keep it. So you won't see any video.

22 And even if they don't have video in the mop closet,
23 generally in the areas where there aren't cameras, there's
24 cameras right outside of it. You won't see any videos here
25 because it wasn't reported, and that could have been a report

1 by a corrections officer or another employee, any one of the
2 540 employees that work at Chillicothe Correctional Center. It
3 could have been by an offender, one of these women, or another
4 offender. Any one of the more than 1400 offenders who live at
5 Chillicothe Correctional Center. And offenders may have their
6 own reasons, their own incentives, both well-intentioned or
7 not, for reporting something amiss.

8 You're going to hear, and you have heard, a lot of
9 horrible accusations during the course of this trial. You will
10 hear Mr. Bearden deny those horrible accusations. In a few
11 days, I'll come back up here, and I'll talk to you again about
12 what you've seen and what you've heard, about what you haven't
13 seen and what you haven't heard. And when I do, I'll ask you
14 to enter a verdict in favor of Edward Bearden on each of the
15 claims against him, finding that he did not rape or sexually
16 assault Karen Keil, Lynnsey Betz, Ashley Zieser, or Trenady
17 George.

18 Thank you, ladies and gentlemen.

19 THE COURT: Is the plaintiff ready to call your
20 first witness?

21 MS. McGRAUGH: Thank you, Your Honor. The
22 plaintiffs would call Ashley Zieser.

23 THE COURT: Ma'am, if you could step forward to this
24 lady right here first. She's going to swear you in.

25 - - -

1 ASHLEY ZIESER,
2 being first duly sworn by the courtroom deputy, testified as
3 follows:

4 THE COURT: If you could have a seat right up there
5 at the witness chair to my right.

6 MS. McGRAUGH: Your Honor, would you prefer I be at
7 this podium?

8 THE COURT: Yes, please.

9 - - -

10 DIRECT EXAMINATION

11 By Ms. McGraugh:

12 Q. Good afternoon, Ashley.

13 A. Hi.

14 Q. Could you tell the jury your name, please?

15 A. Ashley Marie Olsen Zieser.

16 Q. Where do you live?

17 A. In Merriam Woods, Missouri.

18 Q. Are you married?

19 A. Yes.

20 Q. And do you have any children?

21 A. Yes.

22 Q. How many children?

23 A. Four.

24 Q. Could you tell the jury what their names are and their
25 ages?

1 A. Yes. Makayla, Branden, Chloe, and Grayson. They are
2 17, 15, 13, and ten months.

3 Q. Ten months. And Grayson is the one that's ten months?

4 A. He is.

5 Q. So I'm going to ask you to try to keep your voice up.
6 I'm wondering if I could --

7 THE COURT: You could also move that microphone a
8 little bit closer to you. Yes, I think that would help. And I
9 think that chair will move in a little bit closer to the
10 microphone, if that helps.

11 BY MS. McGRAUGH:

12 Q. Ashley, can you tell the jury what your work history
13 is?

14 A. I have been in sales and marketing, a CNA at Christian
15 Health Care East, and also a housekeeper at the Welk Resort and
16 Hilton.

17 Q. And where were those resorts?

18 A. In Branson.

19 Q. Did you work in a family business?

20 A. Yes. My husband actually just reopened our business.
21 We had to close during the pandemic, but we just opened a
22 telemarketing room down in Harrison, Arkansas.

23 Q. And are you employed by that company?

24 A. Yes.

25 Q. What's your role?

1 A. I'm the administration.

2 Q. Which of those positions did you hold after you were
3 released from Chillicothe?

4 A. The Welk, housekeeping.

5 Q. And what about the position with the family business?

6 A. The marketing and sales.

7 Q. Ashley, I want you to tell the jury about your criminal
8 convictions. Were you incarcerated at Chillicothe Correctional
9 Center?

10 A. I was.

11 Q. Is that also called CCC?

12 A. Or Chilly.

13 Q. So if you say Chilly, you mean Chillicothe prison?

14 A. Yes.

15 Q. What were you convicted of that you went to
16 Chillicothe?

17 A. I have three possessions and an assault on a law
18 enforcement officer.

19 Q. Possession of what?

20 A. A controlled substance.

21 Q. And were those convictions from one time or from
22 separate times?

23 A. They were from one close -- two of them were together,
24 and one of them was a couple of weeks before that, so they were
25 all right around the same time frame.

1 Q. When did you get to Chillicothe?

2 A. In January of 2014.

3 Q. Are you good on all of these dates?

4 A. No, no, I'm not. And it was a long time ago, and I'm
5 very nervous.

6 Q. All right. Did you attend drug treatment at
7 Chillicothe Correctional Center?

8 A. Yes, I did.

9 Q. Do you recall when that was?

10 A. In -- I got out in April of 2014.

11 Q. Were you addicted to drugs at that time?

12 A. Yes, I was.

13 Q. Can you tell the jury what drug you were addicted to?

14 A. Methamphetamine.

15 Q. What was your sentence on the
16 possession-of-controlled-substance charges?

17 A. Seven years.

18 Q. Do you think the sentence that you received was fair?

19 A. Absolutely.

20 Q. Did you go automatically to Chillicothe, or did you go
21 to a different prison before going to Chillicothe?

22 A. No, I went to Vandalia first.

23 Q. And that's another women's prison?

24 A. Yes.

25 Q. Do you recall when you transferred from Vandalia to

1 Chillicothe?

2 A. No.

3 Q. Did you do the remainder of your sentence at
4 Chillicothe?

5 A. Yes.

6 Q. Do you recall when you got out of Chillicothe?

7 A. Yes.

8 Q. When was that?

9 A. In May of 2017.

10 Q. Now, you mentioned two possessions, three possessions
11 and assault of a law enforcement officer. Did you ever get
12 convicted of forgery?

13 A. Yes, I got two forgeries when I was, I think, 18 years
14 old.

15 Q. Do you recall what year that was?

16 A. Maybe 2004 or '05.

17 Q. Are you unsure?

18 A. Yes.

19 Q. Now, Ashley, I'd like to take a minute to ask you some
20 questions that can help everybody kind of understand how life
21 in prison works.

22 A. Okay.

23 Q. Tell me what your introduction to the women's prison in
24 Chillicothe was like.

25 A. It was terrifying. You go there, and it's gray and

1 scary. You're just shell-shocked. You're terrified. You
2 haven't talked to anyone, they really take everything from you,
3 and it's terrifying.

4 Q. And you say they take everything from you. Does that
5 include your clothing?

6 A. Yes. Yes, it does.

7 Q. Are you provided with clothing?

8 A. Yes, you are.

9 Q. What are you provided with?

10 A. A pair of khaki pants and a khaki top and some granny
11 panties and a sports bra.

12 Q. How many of those can you have in your possession at
13 one time, if you recall?

14 A. I think four of the khaki bottoms, four khaki tops, two
15 pair of underwear, and two pair of bra.

16 Q. Can you go do your own laundry?

17 A. No.

18 Q. Did you do any educational classes?

19 A. I did.

20 Q. What classes did you do?

21 A. I got enrolled in my G.E.D. classes, and I got my
22 G.E.D. and completed it there.

23 Q. How long did it take you to pass your G.E.D. test? And
24 G.E.D., am I correct, is a high school equivalency exam?

25 A. Uh-huh, it is. I think almost about a year.

1 Q. Do you know if there was a reason it took you so long?

2 A. It was very hard. I dropped out of high school pretty
3 early. I was really bad with math, and I had to work really
4 hard at a couple of things before I could take the test to pass
5 it.

6 Q. Are you allowed to have money at the prison?

7 A. No.

8 Q. Are you allowed to have funds?

9 A. You can have funds. It's called your books where
10 people can put money on your books. Like your outside family
11 or friends can put money on your books, and then you take the
12 money, and you can go to canteen to get stuff you need, like
13 shampoo, soap, toothpaste.

14 Q. When you got to Chillicothe and they handed you your
15 clothing, what personal care items did they provide you with?

16 A. A bar of soap and a toothbrush that was this big.

17 Q. Toothpaste?

18 A. No.

19 Q. How do you get the things that you need for your daily
20 life in there?

21 A. You have to buy it on commissary.

22 Q. And what is commissary?

23 A. Where you can use your money that goes on your books,
24 and it's called commissary or the store.

25 Q. Is it the same as canteen?

1 A. Yes.

2 Q. Did you have family putting money on your books?

3 A. No, I did not.

4 Q. So if you needed shampoo, what would you do?

5 A. Borrow it.

6 Q. Did the government give you money every month for
7 essentials?

8 A. They gave you \$7.50 a month, I think. If you didn't
9 have any money on your books that no one helped you, they would
10 give you \$7.50 a month, and you could take that, and you could
11 spend that at the store to get, like, shampoo, toothpaste, bar
12 of soap.

13 Q. Did anybody put money on your books?

14 A. No.

15 Q. Were you able to get a job?

16 A. I was.

17 Q. What was your first job?

18 A. I believe my first job was in the warehouse.

19 Q. And how much money do you make working in the
20 warehouse?

21 A. \$7.50 a month.

22 Q. Okay. Is there a way to make more money?

23 A. There is.

24 Q. What is that way?

25 A. In the work-release program, they make \$7.50 a day, or

1 at least they did when I was there. But it's extremely
2 privileged, so you have to be -- you have to have your G.E.D.
3 or high school diploma first, you have to be violation-free for
4 90 days or better, you have to be well-behaved. You have to be
5 very -- because it's like an honors dorm. You can use the
6 phone late at night. You don't have to go to chow all the
7 time. You get privileges in that dorm that you wouldn't get in
8 another dorm, so you have to be very well-behaved and very --
9 it's a picked, privileged position.

10 Q. How long did it take you to get in the work-release
11 program?

12 A. Almost a year.

13 Q. Is that a year after you finished your G.E.D.?

14 A. No, I got my G.E.D. and had a plan to go over to work
15 release and --

16 Q. Were you glad to get into the work-release program?

17 A. Extremely.

18 Q. Why is that?

19 A. Because I was just so proud of myself for actually
20 making a goal and accomplishing it. It was the little win that
21 made me feel better about myself. And it was not an easy task
22 because you can get violations; and if you would get a
23 violation, you are not considered for the work release or the
24 honor dorm.

25 Q. So who determines if you get a violation?

1 A. The guards do.

2 Q. Can you tell the jury the kind of things where you
3 could get a violation?

4 A. Lots of stuff. If you have like tennis shoes that are
5 not your tennis shoes, they will give you a violation for that.
6 If you're not in your bed on count time, if your light's not on
7 for count, if you're not in the right place or building, if you
8 have any kind of contraband, which is anything that has not
9 been given to you by the state or bought on canteen with your
10 inmate number on it, you get a violation for.

11 Q. Where did you work when you were on work release?

12 A. In work release, you get selected, then you move over
13 to the honor dorm, and then you get put in administration,
14 which is in the admin building. Then you go to the garage,
15 then you go to a crew.

16 Q. And when you were in work release, where were you?

17 A. When I first got there, I was in the administration
18 building.

19 Q. I'm going to show you what has been marked as
20 Defendant's Exhibit 19.

21 COURTROOM DEPUTY: Are you wanting the jury to see
22 this exhibit?

23 MS. McGRAUGH: No, I just want the witness to see
24 it. There we go.

25 COURTROOM DEPUTY: That's all right. Sometimes this

1 takes a little more finagling than normal.

2 MS. McGRAUGH: If it has anything to do with
3 technology, I'm certain.

4 COURTROOM DEPUTY: So we apologize. Okay.

5 THE COURT: So it's on my screen, and it's on the
6 court reporter's screen, but it's not on the witness screen.

7 COURTROOM DEPUTY: I'm trying to figure out why it's
8 not coming up for --

9 MS. McGRAUGH: If it would be easier, I'm happy to
10 approach the --

11 THE COURT: Why don't you just -- unfortunately.
12 Okay, now it's working.

13 COURTROOM DEPUTY: It just took several tries.
14 Sorry, Judge.

15 THE COURT: That's okay. Now it's working.

16 BY MS. McGRAUGH:

17 Q. Ashley, let me ask you to look at what's been marked as
18 Defendant's Exhibit 19 and stipulated to. Can you tell me what
19 this is?

20 A. A map of the Chillicothe Correctional Center.

21 Q. Okay. And as you recall, is this a true and accurate
22 copy?

23 A. Yes.

24 MS. McGRAUGH: Your Honor, I move to admit.

25 THE COURT: Any objection?

1 MS. ROTHERMICH: If we may approach, Your Honor.

2 THE COURT: Sure.

3 (Counsel approached the bench, and the following
4 proceedings were had:)

5 MS. ROTHERMICH: Your Honor, my objection has to do
6 with -- my objection has to do with the fact that D19 has
7 several pages, and we've only laid foundation for one.

8 THE COURT: Is it stipulated to?

9 MS. ROTHERMICH: It's my understanding it was not
10 stipulated to, so I'm not sure that --

11 THE COURT: Okay, we'll just --

12 MS. McGRAUGH: Okay. I thought that we had
13 stipulated to this. Otherwise, I will mark each individually.
14 I have exhibits --

15 THE COURT: The first page of Exhibit 19 -- so do
16 you object to the first page of 19?

17 MS. ROTHERMICH: I do not.

18 THE COURT: Okay.

19 (The following proceedings were had in open court:)

20 THE COURT: The first page of Exhibit 19 is
21 admitted.

22 (Page 1 of Defendant's Exhibit 19 was admitted into
23 evidence.)

24 MS. McGRAUGH: Your Honor, I am going to mark this
25 as Exhibit 19A.

1 THE COURT: 19A will be admitted.

2 (Defendant's Exhibit 19A was admitted into evidence.)

3 MS. McGRAUGH: Thank you, Your Honor.

4 BY MS. McGRAUGH:

5 Q. Let me ask you to look at -- this will be D19A. Can
6 you tell me, is this the same map?

7 A. Yes.

8 MS. McGRAUGH: Okay. Your Honor, may I please ask
9 the witness to come down from the stand to use this map?

10 THE COURT: I think it would be helpful if you would
11 set it up over there so that everyone can see. And, yes, now
12 she may step down.

13 BY MS. McGRAUGH:

14 Q. Would it help you to explain your testimony, Ashley, if
15 you were able to show the jury on a map where these places
16 were?

17 A. Yes.

18 Q. Would you step down, please? And I'm going to give you
19 a blue marker.

20 MS. McGRAUGH: Your Honor, I move to admit 19A for
21 demonstrative purposes only.

22 THE COURT: Any objection?

23 MS. ROTHERMICH: No, Your Honor.

24 THE COURT: The -- so by that, you mean the --

25 MS. McGRAUGH: The poster board, Your Honor. So I

1 guess the record should reflect that the witness is looking at
2 a blowup of D19 that's been placed in front of the jury.

3 Can you see that? Do you need me to move it? Okay.
4 We'll get in big trouble if we draw on that.

5 BY MS. McGRAUGH:

6 Q. So you mentioned -- tell the jury what's in -- let's
7 start with that. Tell the jury what's in this diagram.

8 A. These --

9 (Reporter interruption.)

10 THE COURT: I'm not real confident this is going to
11 work because she can't hear what she's saying.

12 MS. McGRAUGH: If it's not going to work, I'll
13 withdraw.

14 THE COURT: She can mark on the screen in front of
15 her. This monitor, she can mark on it. She just doesn't speak
16 loud enough for us to be able to hear her.

17 MS. McGRAUGH: I understand, Your Honor. Why don't
18 you step back up. Let's do it this way.

19 BY MS. McGRAUGH:

20 Q. The map in front of you, you said, is a map of the
21 prison?

22 A. Yes.

23 Q. Okay. Is it the entire prison?

24 A. Yes.

25 Q. Okay. Now, you were just speaking about being on work

1 release; is that correct?

2 A. Yes.

3 Q. What was the name of the area where you were on work
4 release?

5 A. The administration building.

6 Q. Okay. And where on the map is the administration
7 building?

8 A. Right here.

9 Q. Okay. What buildings are in the administrative
10 building?

11 A. The offices of the warden, the roll-call room, the male
12 locker room where they get dressed and go into the shift. We
13 cleaned all of that. We cleaned the lobby, the offices, the
14 roll-call room.

15 Q. I'm now going to show you Defendant's Exhibit 19B and
16 ask you to -- this is a different exhibit, but it's still part
17 of 19. It's admitted already, correct?

18 THE COURT: It's my understanding that the first
19 page of 19 was not objected to and was admitted. I don't
20 believe, then, that the other pages have been admitted.

21 MS. McGRAUGH: If we could just show this to the
22 witness and the Court, please?

23 BY MS. McGRAUGH:

24 Q. I'm not sure how well you can see that, but can you
25 tell me what this exhibit is?

1 A. The administration building.

2 Q. And is it a map?

3 A. Yes. It looks like it, yes.

4 MS. McGRAUGH: Your Honor, we'll move to admit
5 Defendant's 19B.

6 THE COURT: Any objection?

7 MS. ROTHERMICH: No, Your Honor.

8 THE COURT: Exhibit 19B will be admitted.

9 (Defendant's Exhibit 19B was admitted into evidence.)

10 BY MS. McGRAUGH:

11 Q. And so this is the administrative building, you said?

12 A. Yes, ma'am.

13 Q. Okay. Can you make out where in the administrative
14 building you would enter?

15 A. I believe it was over around here.

16 Q. Okay. So that's that second circle at the top?

17 A. Yes.

18 Q. So you managed to get this position in work release
19 cleaning the administrative building. Who was your supervisor?

20 A. Mrs. Dooley.

21 Q. Did you work one shift or different shifts?

22 A. I worked split shift.

23 Q. And why don't you tell the jury what split shifts are.

24 A. Split shift is we would go in and clean from 7:00 to,
25 like, 1:00, and then we would be off until 5:30 to 8:30. So we

1 would just have to go in and clean in the morning and in the
2 evening too.

3 Q. So from 7:30 to 1:00, that's in the morning; is that
4 correct?

5 A. Yes.

6 Q. And the 5:00 to 8:00 was p.m.?

7 A. Yes.

8 Q. When you arrived at the administrative building to
9 clean at 5 p.m., was it full of people?

10 A. No.

11 Q. Who was there?

12 A. Bearden.

13 Q. I'm sorry?

14 A. Bearden.

15 Q. Was, for example, the -- any of the administrative
16 employees there?

17 A. No, they all go home. They all cleared out. Everyone
18 had -- it's usually empty. We just do the trashes and stuff
19 and clean up so it looks nice for the next day when they get
20 back to work.

21 Q. So there were not people walking the hallways?

22 A. No, there was not.

23 Q. How many women were on your crew?

24 A. Probably six, but we didn't all go up there at the same
25 time. It was usually three go up in the morning, three go up

1 at night, and then the next day the other three go.

2 Q. Who was the guard supervising that detail when you were
3 in the administrative building?

4 A. Mr. Bearden was up there.

5 Q. Was that the first time you met Mr. Bearden?

6 A. No.

7 Q. Can you tell the jury the first time you met
8 Mr. Bearden?

9 A. Yes. I was working in the warehouse, and we had just
10 got done unloading a truck for canteen, which a semi-truck
11 would come with all of the stuff and we unloaded it and sorted
12 through it and put it all away. And it was the end of the --
13 the end of the workday where we were about done. All the other
14 inmates were walking out, and I had got my cup that I had drawn
15 on and was walking out, and Mr. Bearden stopped me and grabbed
16 his penis through his pants and said, "You know you want that,
17 don't you?"

18 Q. Do you recall when this was?

19 A. Probably around -- in the afternoon. It was close to
20 mealtime at dinner. So...

21 Q. Can you -- I'm going to switch.

22 I'm now going to show you Defendant's Exhibit 19C.
23 Can you tell me what this is?

24 A. That is a map of where the warehouse was, like the
25 central -- like inside the central administration building.

1 MS. McGRAUGH: Your Honor, I move for admission of
2 19C.

3 THE COURT: Any objection?

4 MS. ROTHERMICH: No, Your Honor.

5 THE COURT: 19C will be admitted.

6 (Defendant's Exhibit 19C was admitted into evidence.)

7 BY MS. McGRAUGH:

8 Q. Okay. So you said the first time you had this exchange
9 with Officer Bearden, you were in the warehouse. Can you show
10 them where the warehouse is?

11 A. Right here.

12 MS. McGRAUGH: Excuse me, Your Honor. Okay.

13 A. Right here.

14 BY MS. McGRAUGH:

15 Q. That's the warehouse?

16 A. Yes.

17 Q. Where would you work when you were unloading the
18 trucks?

19 A. Over here.

20 Q. All right. Now, the first time Mr. Bearden approached
21 you, where in the warehouse were you, if you recall?

22 A. I think we were getting -- I was right here. There's a
23 table right here, and we were getting ready to leave out this
24 way.

25 Q. Okay. And you had this exchange with Officer Bearden,

1 correct?

2 A. Yes.

3 Q. Did you report it?

4 A. No.

5 Q. Did you have another incident with Edward Bearden?

6 A. Yes.

7 Q. Can you tell us when that happened?

8 A. When I was working in the administration building.

9 Q. Okay. And I'm going to put Exhibit 19B back on for you
10 to look at.

11 THE COURT: So there's a way to clear out the
12 markings that you've made. Do you see on the monitor anywhere
13 it's evident where you can do that?

14 MS. McGRAUGH: Counsel was kind enough to show me
15 how to do it.

16 THE COURT: Okay.

17 MS. McGRAUGH: Thank you. Okay.

18 BY MS. McGRAUGH:

19 Q. Can you -- you showed us where you went in. The day
20 this second incident happened, were you on work release?

21 A. Yes.

22 Q. What was your assignment?

23 A. To clean the administration building.

24 Q. In order to clean the administration building, do you
25 have to get equipment?

1 A. Yes.

2 Q. Where is that equipment located?

3 A. In the janitor closet.

4 Q. Can you see on this map where the janitor's closet is?

5 A. I assume somewhere in here. I can't see it very well.

6 Q. Okay. And what would be in the janitor's closet?

7 A. Our cleaning supplies, our mops, our mop heads, our
8 brooms, our big yellow cart that we use to clean everything
9 with.

10 Q. Okay. Can you tell the jury what happened the second
11 time with Edward Bearden?

12 A. Yes. I was -- so right down the hall, there's a small
13 break room down there, and he told me to go get the trash out
14 of the small break room. And there was no other girls around,
15 and I went in there to get the trash, and it was under a
16 cabinet. And it's down the hall, and it's like the office, a
17 small break room, so there's no cameras in there. And I was
18 going under the cabinet to get the trash, and he came up behind
19 me, and he slid his hand in my pants and my underwear.

20 Q. And what happened next?

21 A. And he put his fingers in my vagina. He put his
22 fingers in my vagina.

23 Q. And was he in front of you or in back of you when this
24 happened?

25 A. He was behind me with his penis on my butt.

1 Q. Could you feel his penis on your butt?

2 A. Yes.

3 Q. Did you give him consent to put his fingers in your
4 vagina?

5 A. No, I did not.

6 Q. How did it feel when he put his fingers in your vagina?

7 A. It burned.

8 Q. How long did he leave his fingers in there?

9 A. I have no idea. It felt like forever. I think it was
10 just a few minutes, though.

11 Q. Did he say anything to you while this was going on?

12 A. Not at this time, no.

13 Q. What happened after he took his fingers back out of
14 your vagina?

15 A. He left and walked out of the room.

16 Q. What did you do?

17 A. I was shocked. I collected myself, and I went back to
18 the janitor closet where the other girls were, and we all left.
19 We had to go get stripped out. We left. I went back to my
20 housing unit, and I went to the bathroom.

21 Q. When you went to the bathroom, did you notice anything
22 unusual?

23 A. I had spotting on my toilet paper when I wiped.

24 Q. Spotting of blood?

25 A. Yes.

1 Q. And were you still experiencing pain?

2 A. Yes.

3 Q. How long did that pain last?

4 A. I would say probably about a week.

5 Q. Now, did you tell anybody after this happened?

6 A. No.

7 Q. Tell the jury why you didn't go report this.

8 A. Because if you tell anybody, from my understanding, I
9 lose everything. I would lose my job, I would lose --

10 MS. ROTHERMICH: Objection, Your Honor.
11 Speculation.

12 THE COURT: Overruled.

13 BY MS. McGRAUGH:

14 Q. So you would lose your job, your work-release job?

15 A. I had just worked so hard to get into it.

16 Q. Okay. Anything else?

17 A. Everything. You lose visits, you lose phone calls.

18 From what I understand, they take everything away from you, and
19 you go to the hole.

20 Q. And what's in --

21 A. I didn't --

22 Q. I'm sorry.

23 A. I didn't want to lose my job. I worked so hard to get
24 there.

25 Q. If you lost your job, what would happen?

1 A. Well, I wouldn't have any money in my books, which is
2 kind of a stupid thing to not tell on someone for doing that,
3 but at the time -- I guess. I don't know.

4 Q. Would you -- do you know how long you would be in the
5 SHU?

6 A. No. I've seen girls go down there for months and
7 months and months.

8 THE COURT: So we've been going for about an hour
9 and a half. Why don't we go ahead and take our afternoon
10 break.

11 Ladies and gentlemen, we'll take a 15-minute break.
12 We will come back at about 3:45. During this break, don't
13 discuss this case among yourselves, don't discuss the case with
14 anyone else, don't permit the case to be discussed in your
15 presence, and we will be in recess until about 3:45.

16 (The following proceedings were had in the courtroom
17 out of the presence of the jury:)

18 THE COURT: So with respect to the exhibits -- I
19 meant to bring this up this morning, and it just slipped my
20 mind.

21 It's my understanding that some of the objections
22 are -- some of the exhibits are stipulated to and some are not
23 objected to. To the extent the parties, maybe not at this
24 break, but tonight can work through those exhibits -- what
25 those exhibits are, we can just either tonight or tomorrow

1 morning admit those because it just saves a significant amount
2 of time. If you're not going to object to some of these
3 diagrams and the like that probably came from your client
4 anyway, I think it saves a lot of time and speeds things up for
5 the jury.

6 Again, you don't need to do this at this break. To
7 the extent you can, I would appreciate if the parties could do
8 that tonight.

9 Anything else I can take up during this break?

10 MS. McGRAUGH: No, Your Honor.

11 THE COURT: Okay. Then we'll be in recess for 15
12 minutes.

13 (A recess was taken from 3:34 p.m. to 3:48 p.m.)

14 THE COURT: Ready to bring the jury out?

15 MS. McGRAUGH: Yes, Your Honor.

16 THE COURT: Okay. Ma'am, I would ask that you go
17 ahead and please take the witness stand again.

18 And if you could bring the jury in, please.

19 (The following proceedings were had in the courtroom
20 in the presence of the jury:)

21 THE COURT: Ms. McGraugh, you may continue.

22 MS. McGRAUGH: Thank you, Your Honor.

23 BY MS. McGRAUGH:

24 Q. Before the break, we were talking about the second time
25 you had the sexual assault incident in the administrative

1 building. Is that correct?

2 A. Yes.

3 Q. All right. Can you tell the jury what happened with
4 that situation?

5 A. He again told me to go get the trash out of the small
6 break room; and then he again proceeded to come up behind me
7 and put his hands down my pants into my vagina, and his fingers
8 went in my vagina, and his penis was on my butt, I think just
9 for a few minutes again. And when he stopped, he said, "You
10 know you like that, don't you?" And I didn't say anything.
11 And he left.

12 Q. What was going through your mind when this happened?

13 A. Honestly, I couldn't believe that it was really
14 happening. I was shocked. I had never been approached by a
15 guard like that before, or ever. I couldn't believe that it
16 was happening, and I just didn't know what to do. I couldn't
17 tell because if I told, I'd have lost my job.

18 Q. Who was on your cleaning crew with you?

19 A. I had Ella Hoy and Terry Ward were on there with me.

20 Q. Okay. Both times?

21 A. Yes. I believe so, yes.

22 Q. Were you frightened?

23 A. Yes, I was terrified.

24 Q. After it happened the second time, what did you do?

25 A. I went and grabbed Ella Hoy, and I told her everything.

1 I said, "Look, Mr. Bearden is doing weird shit to me, and I
2 need your help. I don't know what's going on." And Ella was
3 like, "Listen, we'll make a buddy system. It will be me and
4 you. And if it's not me and you, we'll make sure that
5 everyone -- someone is always with you."

6 Q. And why was that?

7 A. Because I didn't think he was going to stop. And I was
8 right.

9 Q. Okay. How -- do you remember how much distance
10 time-wise there was between the first incident and the second
11 one?

12 A. I think like a week, if that.

13 Q. Was there another incident with Edward Bearden?

14 A. Yes.

15 Q. What happened? And start by telling us when, please.

16 A. Right after the second incident, we were up there
17 cleaning, I believe it was on a Saturday or Sunday, I'm not
18 sure which day. It was so long ago, I couldn't remember. It
19 was in the evening. And he was up in the administration
20 building, and we had to go and -- we still had the locker rooms
21 to do and the roll-call room. And we had just got done doing
22 the roll-call room, and we went into the locker room. And we
23 put the sign on the door, and we opened it and we propped the
24 cart in there because no one is allowed in there with an inmate
25 in there.

1 Q. Let me back you up. When you're cleaning the
2 bathrooms, who can be in there?

3 A. No one. Well, just the inmates. The inmates that are
4 cleaning it can be in there.

5 Q. Okay. What about the guards?

6 A. No, they're not allowed. They're supposed to knock and
7 tell us to get out.

8 Q. Are there cameras in the bathroom?

9 A. No, there's not.

10 Q. And in case I didn't ask, was there a camera in that
11 closet with the cleaning products?

12 A. No, there's not.

13 Q. So who went in the bathroom to clean?

14 A. I did.

15 Q. Did anybody go with you?

16 A. Ella Hoy came with me. And we went into the male
17 locker room; and I was on one side mopping, and she was on the
18 other side dry mopping.

19 Q. And what's between the two sides?

20 A. A big wall. Like there's showers on one side and
21 toilets on the other side, and there's a big wall in between.
22 It's like a U, it's like a horseshoe with a wall in the middle.

23 Q. And did you see Edward Bearden?

24 A. Yes. He came into the bathroom and seen me and
25 directly came over. He came behind me and grabbed me by my

1 hair, pulled me around, and said, "You're going to suck my dick
2 today."

3 And Ella Hoy popped out of the side of the bathroom
4 and she's like, "What?" And he took off so fast, it wasn't
5 even funny. He left the locker room, and I don't believe that
6 he bothered me again.

7 Q. Did you try to get transferred out of that assignment?

8 A. Yes.

9 Q. Can you tell the jury what happened with that?

10 A. I went back to Miss Dooley, and I told her, "Look, I've
11 got to get out of here, I've got to get out of the admin
12 building. Please, can we move me up to the garage?"

13 Q. Now, did you tell her why?

14 A. No. No. I told her that I just -- she kept asking,
15 "Well, what's going on" --

16 MS. ROTHERMICH: Objection, hearsay.

17 BY MS. McGRAUGH:

18 Q. Without telling what she said to you, excuse me, could
19 you tell us what you said to her?

20 A. Yes. I said, "I just got to get out of there. Please,
21 I have to get out of there. I can't be in there anymore, I
22 need to go over to the garage, or I'm just going to quit work
23 release altogether. I have to get out of there or I'm going to
24 quit. Just take me off of work release if you're not going to
25 get me out of admin."

1 Q. What happened after that?

2 A. She said, "Okay. Okay."

3 Q. I don't want you to tell me what she said.

4 A. She moved me out of admin into the garage.

5 Q. Okay. Was that the last encounter you had with Edward
6 Bearden?

7 A. Yes.

8 Q. During the time you were in Chillicothe, did Edward
9 Bearden ever ask you to write him a letter?

10 A. Yes.

11 Q. Can you tell the jury what happened with that?

12 A. He asked me to write him a letter and tell me what he
13 wanted me to do to him and tell me what he wanted -- he wanted
14 me to have done to me or he wanted me to have him do to me.
15 And if he wanted me to bring anything in for -- if he wanted me
16 to have anything brought in, put it in a letter and leave it in
17 my locker, because his locker room was in the administration
18 building.

19 Q. So you could access his locker in the administration
20 building?

21 A. Yes.

22 Q. Was this before or after he sexually assaulted you?

23 A. Before.

24 Q. Did you write him a letter?

25 A. I did.

1 Q. Can you tell the jury what that letter said?

2 A. It said, "Leave me the fuck alone."

3 Q. What did you do with the letter?

4 A. I put it in his locker.

5 Q. Did you ever get a response?

6 A. No. No, I didn't.

7 Q. When Mr. Bearden sexually assaulted you, were there
8 other guards around?

9 A. No, there wasn't.

10 Q. Okay. He's the only -- he was the only guard in the
11 administration center?

12 A. Right. I believe there was a guard in the bubble.
13 Okay, so it's in between two locked doors with a bunch of TV
14 screens that looks at the cameras, at the prison, but they
15 weren't -- I mean, I don't think they could see anywhere where
16 we were cleaning.

17 Q. Do you know why they call it the bubble?

18 A. Because it looks like a bubble.

19 Q. Does it have glass around it?

20 A. Uh-huh. Uh-huh.

21 Q. Is where you were sexually assaulted anywhere near that
22 bubble?

23 A. No.

24 Q. Did you ever tell anybody besides Ella Hoy about the
25 sexual assaults?

1 A. I told Adrienne Laswell and Amie Calder. They were my
2 good friends.

3 Q. Did you ever tell anybody in the administration?

4 A. No.

5 Q. What did you do when you were released from
6 Chillicothe?

7 A. I got married and got off parole and was working.

8 Q. Did Mr. Bearden's name resurface after you got out of
9 Chillicothe?

10 A. It did.

11 Q. Can you tell the jury how that happened?

12 A. I was getting my hair done at -- by, actually, a girl
13 who was in prison with me. She was in cosmetology. She did my
14 hair in prison, and then we got out, and she does my hair
15 outside. Her name is Jennifer N. Townsend. We called her
16 Barbie.

17 I was getting my hair done by Jennifer, and she said
18 "Did you hear about Karen?" And I said, "No, what?"

19 Q. Now, did you know who Karen was?

20 A. I do, I did.

21 Q. Did you know Karen in prison?

22 A. As a BLAST instructor, yeah.

23 Q. Okay. So BLAST -- what is BLAST?

24 A. She was our exercise instructor. She did like Zumba,
25 yoga, all of that other stuff.

1 Q. And this is Karen Keil?

2 A. Yes.

3 Q. Were you friends?

4 A. No, we weren't friends. She was -- she helped me lose
5 a lot of weight.

6 Q. Okay. And -- but you know who --

7 A. I knew who she was, though.

8 Q. Okay. And so what happened after that?

9 A. I heard -- Jennifer was talking to me, and she said, do
10 you --

11 MS. ROTHERMICH: Objection, hearsay.

12 Q. Don't --

13 THE COURT: Okay.

14 MS. McGRAUGH: I'll tell her, just give me a --

15 THE COURT: Thank you.

16 MS. McGRAUGH: Excuse me, Judge, is that
17 permissible?

18 THE COURT: Yes.

19 A. I'm sorry.

20 BY MS. McGRAUGH:

21 Q. That's okay. Don't tell us what she told you, just
22 tell us what you said and did, okay?

23 A. All right.

24 Q. Did she give you information?

25 A. She did.

1 Q. Did she give you information about Karen?

2 A. She did.

3 Q. Did she give you information about Karen and Edward
4 Bearden?

5 A. She did. And --

6 Q. Did she -- did you make contact with Karen after that?

7 A. I did.

8 Q. Do you recall when this was?

9 A. No.

10 Q. And what did you do after she gave you that
11 information?

12 A. I got ahold of Karen immediately, and I said, "It
13 happened to me too." And she said, "I'll stop you right
14 there."

15 Q. Okay. We won't want to know what Karen said.

16 A. Oh, I'm sorry.

17 Q. Did Karen advise you to do anything?

18 A. Just to call John.

19 Q. John Ammann?

20 A. Yes.

21 Q. Okay.

22 A. And that was it. She said, "Don't say anything, just
23 call John."

24 Q. Okay. Thank you.

25 A. Oh.

1 Q. It's hard to remember.

2 A. Sorry.

3 Q. Okay. How did you get Karen's phone number to call
4 her?

5 A. My friend, Teresa Buckner, she was on work release with
6 me, and she is one of Karen's good friends, her and Karen are
7 friends. And I asked her, "I need to talk to Karen," and she
8 said, "Well, what's going" --

9 Q. And was she able to provide you with the number for
10 Karen?

11 A. Yes, she was. She gave me her number.

12 Q. Okay. Now, this whole time, Ashley, we've been talking
13 about Edward Bearden. Do you see Edward Bearden, the man who
14 sexually assaulted you, in this courtroom?

15 A. I do.

16 Q. Can you point to him and identify him for the record,
17 please?

18 A. He's sitting right over there.

19 Q. What's he wearing?

20 A. A suit top, and has glasses and a purple shirt, I
21 think.

22 MS. McGRAUGH: Can the record reflect, Your Honor,
23 that she's identified Defendant Edward Bearden?

24 THE COURT: The record will so reflect.

25 MS. McGRAUGH: Thank you.

1 BY MS. McGRAUGH:

2 Q. I want to talk now about your -- I think there's a
3 tissue right next to you.

4 I want to talk to you now about kind of the
5 aftermath of these sexual assaults. How has, have these sexual
6 assaults affected you?

7 A. I think that they have affected me tremendously.

8 Q. How so?

9 A. With my relationship with my husband, we're not able to
10 be intimate, I am not able to be intimate.

11 Q. Why are you unable to be intimate with your husband?

12 A. I just can't do it.

13 MS. ROTHERMICH: Objection. Calls for an expert
14 opinion.

15 THE COURT: Overruled.

16 A. I just can't do it. I don't --

17 BY MS. McGRAUGH:

18 Q. Have you tried?

19 A. I have. And he's so patient with me, but --

20 Q. And what about your relationship with your daughter?
21 Has that suffered?

22 A. It has. It has. So she -- when she comes up behind me
23 and puts her arm around me, I just -- I freak out. She has to
24 come in front of me. I can't have anyone coming behind me and
25 putting their arms around me, and that's her favorite thing.

1 She loves to hug on me, and she just doesn't understand why.

2 Q. What about your mental state, how is that? Do you have
3 any symptoms?

4 A. I have nightmares all the time where I feel like I
5 can't breathe. I wake up, I'm covered in sweat, my heart is
6 racing, my hands are sweating. It's like it's hard to breathe.

7 Q. Is that a panic attack?

8 A. Yes.

9 Q. Have you sought help from a therapist?

10 A. I have. I started going to therapy, and then Covid
11 happened, and they shut it all down. And they tried to go back
12 on, like, videoconference, but I couldn't figure out how to do
13 that. I'm back in line to get in to a therapist at Burrell in
14 Springfield, but it's 40 minutes away from my house. So...

15 Q. Are you still waiting to get --

16 A. I'm still waiting to get in, yes.

17 Q. Were these the first time you had panic attacks after
18 you were sexually assaulted?

19 A. I had a couple, like, probably four in my entire life.

20 Q. And how old were you then? Do you recall?

21 A. I think like 16, 17, 19.

22 Q. Okay. And at that time, did you have a diagnosis?

23 A. Bipolar depression.

24 Q. Has your current therapist diagnosed you with
25 bipolar --

1 MS. ROTHERMICH: Objection, Your Honor. This is an
2 expert opinion.

3 THE COURT: Overruled.

4 A. I believe they said bipolar depression and PTSD.

5 BY MS. McGRAUGH:

6 Q. Do you know what PTSD stands for?

7 A. Post-traumatic stress syndrome.

8 Q. Okay. What about anxiety?

9 A. Yes, and anxiety.

10 Q. Is there a situation that is more likely to make you
11 have a panic attack?

12 A. Yes.

13 Q. Can you tell the jury what that is?

14 A. Yes. When I was working at the Welk, we have big key
15 rings, and it sounded just like Mr. Bearden's belt because his
16 keys always jingled. You could hear him before you could see
17 him. And when I heard those keys, I ran into the bathroom, I
18 locked the door, I was sweating, I couldn't breathe. It felt
19 like I was under water. My hands and my face went numb, my
20 heart was racing. And I just left. I couldn't even -- I just
21 left. I don't even know why. I couldn't do anything, I just
22 left.

23 Q. And do those panic attacks affect your employment? Has
24 there been a situation where they occurred?

25 A. Yeah, I was working --

1 Q. Can you tell the jury?

2 A. I was working when that happened. I was at the Welk
3 working, and we had big keychains. And I ran into the bathroom
4 and had a panic attack. When I collected myself, I left. I
5 didn't quit, I didn't go back, I just -- I just left. I can't
6 go shopping because being in a big crowd like this, especially
7 around a man in uniform, is terrifying.

8 Q. I want to ask you about another difficulty you have.
9 Do you have difficulty using the bathroom to have a bowel
10 movement?

11 A. I do.

12 Q. Could you tell the jury when that began?

13 A. When I was on 8-House.

14 Q. What is 8-House?

15 A. 8-House is the housing unit I lived on in Chillicothe
16 when I worked on work release. It's the two-man cells, so
17 there's two bunks, and your toilet is in the room.

18 I was in my cell using the restroom, and Mr. Bearden
19 seen that I was in there. He opened the door and said, "I
20 guess I just missed all the fun." And I was on the toilet
21 going -- I was taking a poop. And he just flung the door open,
22 he was just standing there. I couldn't move, I couldn't -- I
23 just stopped everything. My roommate finally seen that he was
24 down there, and so she came back to the room, and he left. And
25 I could finish up after he left.

1 Q. And how has that created a problem for you?

2 A. I am constipated a lot now. I think I'm -- I'm scared
3 to poop. Sometimes it just -- I have flashbacks of it.

4 Q. Have you ever had suicidal thoughts as a result of the
5 sexual assaults?

6 A. I have.

7 Q. I want to just finish by talking about some of the
8 things you're doing now and things you're looking forward to.
9 All right?

10 A. Okay.

11 Q. You told us that you're hoping to get into therapy.

12 A. Yes.

13 Q. How do you feel about your future?

14 A. I am hopeful that the future will be better, that I can
15 just get this off my chest and put it behind me. And I would
16 like to gain more confidence in myself because I used to be a
17 confident person, and I don't feel like I have that anymore.

18 Q. Do you think you're going to get it back?

19 A. Yes, I do.

20 MS. McGRAUGH: Okay. I have no further questions,
21 Your Honor.

22 THE COURT: Cross-examination?

23 MS. ROTHERMICH: Thank you, Your Honor.

24 - - -

25

CROSS-EXAMINATION

1
2 By Ms. Rothermich:

3 Q. Good afternoon, Miss Zieser.

4 A. Hi.

5 Q. First of all, am I saying your name correctly? Is it
6 Zieser?

7 A. Zieser.

8 Q. I apologize.

9 A. That's okay. No one ever gets it right.

10 Q. I wanted to ask you a few questions about your
11 testimony today.

12 So the first question I have is you said that there
13 were the incidents that occurred in the admin building with
14 Mr. Bearden that you testified to. And you said that those
15 were at the night shift when you were the porter; is that
16 right?

17 A. Right. I believe so.

18 Q. All right. Thank you.

19 And then you went through with Ms. McGraugh your
20 convictions, your felonies. I want to just make sure that we
21 have it for the record because I was a little off on my time
22 with that.

23 So the first was the felony conviction from the
24 early 2000s for forgery. Is that correct?

25 A. Yes, I had two of those.

1 Q. Okay. And then there was a second one in 2010 to 2013;
2 does that sound about right?

3 A. Right.

4 Q. So about ten years after that first one, right?

5 A. Right.

6 Q. Okay. And then a felony conviction for possession of
7 controlled substance; is that correct? That was the third?

8 A. Yes.

9 Q. Okay. And I'm sorry to have to ask you to say it out
10 loud, but it's just we have the court reporter.

11 A. That's all right.

12 Q. And then No. 4, the felony conviction for assault on a
13 law enforcement officer; is that correct?

14 A. Yes.

15 Q. Okay. And then the fifth, another felony conviction
16 for possession of controlled substance; is that right?

17 A. That is correct.

18 Q. Okay. So a total of five felony convictions.

19 A. I believe there's one more possession.

20 Q. One more possession?

21 A. Yes.

22 Q. Okay. So six felony convictions?

23 A. Yes.

24 Q. And you were talking a little bit earlier about your
25 time at Chillicothe. So initially you were sent up to

1 Chillicothe just for a treatment program; is that right?

2 A. That's correct.

3 Q. Okay. And you were there from about January to April
4 of 2014; is that correct?

5 A. That is.

6 Q. Okay. And then you had the incident with the law
7 enforcement officer; is that right?

8 A. Yes.

9 Q. And then one of the felony possession charges -- or
10 convictions?

11 A. Yes.

12 Q. Okay. So you were sent back to the Department of
13 Corrections in December of 2014; is that right?

14 A. Yes.

15 Q. Okay. And then, I think we went through this, finally
16 released from Chillicothe in May of 2017, correct?

17 A. Yes.

18 Q. Okay. And you were kind of testifying earlier about
19 things, you know, that you had -- that you went through in
20 prison like the little toothbrush, the clothing, everything
21 like that. I mean, just to be sure for the jury, I want to
22 clear the record on this. I mean, that's something that all of
23 the inmates had to do; is that correct?

24 A. Absolutely, yes.

25 Q. Okay. And prison is not supposed to be fun; we can

1 agree with that, right?

2 A. Absolutely right.

3 Q. Okay. So -- and you agree that safety and security is
4 a concern with prison, correct?

5 A. I would, yes.

6 Q. Okay. So things like the little toothbrush, the extra
7 tennis shoes, things like that, you don't know yourself as a
8 former inmate necessarily why those rules were created; is that
9 right?

10 A. Right.

11 Q. Okay. It's not something that just applied to you,
12 right?

13 A. Correct.

14 Q. Okay. Now, you -- during your time at Chillicothe, you
15 did -- you worked a lot; is that correct?

16 A. Yes.

17 Q. Okay. And you talked about how in December of 2015,
18 you started working as a porter in the administration building;
19 is that right?

20 A. Yes.

21 Q. Okay. And you held that job for about six or seven
22 weeks; is that fair?

23 A. That's correct.

24 Q. Okay. And your job in that role was to clean
25 everything from top to bottom; is that right?

1 A. Yes.

2 Q. Okay. And you said that there were two shifts, and the
3 incidents that we're talking about happened on the night shift,
4 correct?

5 A. I believe so.

6 Q. Okay. Now, we heard a little bit -- I wanted to ask
7 you about the penis-grabbing incident that you described. You
8 said that this occurred in the warehouse; is that right?

9 A. Yes.

10 Q. And the warehouse is part of the secured part of the
11 facility; is that right?

12 A. It is. It's inside the prison.

13 Q. Okay. And I just want to describe for the jury what
14 that means because I'm assuming they've maybe never been into a
15 prison. So in order to get into the secured part --

16 MS. McGRAUGH: Your Honor, I'm going to object to
17 her making a statement to the jury. She can ask the questions
18 of the witnesses.

19 THE COURT: Overruled.

20 BY MS. ROTHERMICH:

21 Q. So in order to get into the secured part of the
22 facility, you go into a security when you enter into the
23 correctional facility; is that correct?

24 A. Yes.

25 Q. And then to get into the secured part of the facility,

1 there are extra gates that you have to go through. If you're a
2 visitor, you have to have an ID, just some extra levels of
3 security; is that fair?

4 A. Yes.

5 Q. Okay. So the warehouse was inside of the secured part
6 of the facility, right?

7 A. It was.

8 Q. And the administration part was outside of the secured
9 part of the facility; is that right?

10 A. It was.

11 Q. Okay. Now, Miss Zieser -- did I say that correctly?

12 A. That's okay.

13 Q. Did I say that correctly?

14 A. Yeah.

15 Q. Okay. You said that the penis-grabbing incident
16 occurred in the secured part of the facility in the warehouse;
17 is that right?

18 A. Yes, I believe so.

19 Q. Okay. And that's your testimony from today.

20 A. Yes.

21 Q. Do you recall giving a deposition in this case on July
22 the 28th of 2021?

23 A. Yes.

24 Q. And I believe -- due to the circumstances of Covid and
25 everything, I believe yours was by Zoom; is that correct?

1 A. Yes, it was.

2 Q. Okay. And do you recall giving testimony under oath
3 regarding your allegations in the case?

4 A. Yes, I do.

5 MS. ROTHERMICH: Your Honor, I would like to put up
6 her testimony here. Can I just use this? I just want to be
7 sure it's not published for the jury.

8 Okay. I apologize for that. I was trying to get
9 you a good copy. So here we go.

10 THE COURT: So, again, it's not on the witness
11 monitor, although it's on mine and the court reporter's. There
12 it goes.

13 BY MS. ROTHERMICH:

14 Q. Okay. So Miss Zieser, I'm going to ask you -- I'm
15 going to read the questioning in the deposition, and I want to
16 be sure that I'm reading it correctly. And if you can just
17 kind of follow along on the deposition here.

18 So at Page 20, Line 7, the question was: "This was
19 in the warehouse?"

20 The answer: "I believe that was up in admin. That
21 was in the admin building, the supply closet in admin, and it
22 was in December."

23 Question, Line 11: "Okay. What happened? Tell me
24 about that."

25 Answer: "We had gotten there, and it was -- I'm not

1 sure, but it was a quiet day. I'm not sure where everyone was,
2 but it was a quiet day, so it might have been like a Saturday.
3 We had gone into the roll-call room. We were cleaning up the
4 roll-call room, and I was going to fill the mop bucket to -- we
5 had to mop it and dry mop it after we had cleaned it. I was in
6 there filling up the mop bucket, and Mr. Bearden was working
7 there that day, and he walked by and caught me completely off
8 guard because he -- he was like, hey, hey, and he grabbed his
9 penis and said, 'You like that.' And I was like, 'What?'
10 Because nobody had ever acted like that before, so it caught me
11 completely off guard."

12 You agree that that is what you testified to just
13 about a year ago in your deposition?

14 A. Yes.

15 Q. Okay. And you agreed previously that the warehouse is
16 different than the admin building.

17 A. Yes.

18 Q. Okay. Thank you. And so you agree that your testimony
19 with regard to that incident has changed.

20 A. Well, I believe it was in the admin building, actually.
21 But in the warehouse, when we were getting off in the
22 warehouse, he was up there, and he was making derogatory
23 comments. I can't remember exactly what, but he had made
24 derogatory comments at the warehouse, as well.

25 Q. Okay. But the testimony that we heard about the penis

1 incident that you just testified to with your attorney, that we
2 heard you say was in the secured part of the facility, is
3 different from the admin area that's not in the secured part of
4 the facility, correct?

5 A. Correct. They are in different places.

6 Q. Thank you. Now, I don't want to go through all of the
7 incidents, I just want to be sure that we're clear for the
8 record. You agree that you did not report those incidents to
9 administration at Chillicothe, correct?

10 A. No, I did not.

11 Q. Okay. And you also here today -- we talked a little
12 bit about your employment history, so I just want to go through
13 a little bit of that for the jury since you are claiming
14 damages relating to that. So you're asking this jury here
15 today to award you lost income due to these incidents, correct?

16 A. Yes.

17 Q. Okay. And in -- just, I want to kind of go through
18 this with the jury. In 2015, you had not had any employment
19 since 2009; is that correct?

20 A. I believe so, yes.

21 Q. So from 2009 until 2015 or '14 when you went into
22 Chillicothe, you had not been employed.

23 A. Right.

24 Q. Okay. Now -- so no employment history for that time
25 period, nothing to put on your resume.

1 A. No.

2 Q. Okay. And no source of income during that time period,
3 correct?

4 A. Correct.

5 Q. Okay. And you previously had had your Certified
6 Nursing Assistant license; is that right?

7 A. It is.

8 Q. And that included special training to get that.

9 A. Yes.

10 Q. And you don't have that anymore; is that correct?

11 A. Right.

12 Q. Okay. And it's expired or something?

13 A. It is, yes.

14 Q. Okay. And you would need to be recertified in order to
15 do that.

16 A. Right.

17 Q. Okay. And you haven't done that; is that right?

18 A. No, I haven't.

19 Q. Okay. And you testified that you worked at the Welk
20 Resort down in Branson. And just to orient the jury, that's a
21 resort down in the Branson area, correct?

22 A. It is. It's like a big hotel resort with time shares
23 in it too.

24 Q. Okay. And that was \$11 an hour, correct?

25 A. It was.

1 Q. And full time.

2 A. Yes.

3 Q. And you held that job at Welk for about three months;
4 is that right?

5 A. That's right.

6 Q. And after that, you also worked for your husband's
7 company for a while; is that right?

8 A. Yes.

9 Q. And that went on for about two years; is that correct?

10 A. Uh-huh.

11 Q. Is that correct?

12 A. Sorry, yes.

13 Q. In that capacity, he would kind of let you -- it seemed
14 like he would let you work your own hours, or you didn't have
15 to work if you didn't really want to, correct?

16 A. Right.

17 Q. So the time periods that you weren't working for your
18 husband's company during that time was due to your own choice.

19 A. Right.

20 Q. Okay. Now, that was commission-based, correct?

21 A. Yes, it was.

22 Q. And no guess as to how much you actually brought home
23 from that, correct?

24 A. Right.

25 Q. And you have not applied for any jobs since March of

1 2020; is that correct?

2 A. Right.

3 Q. And to be fair, that was around the -- we all know
4 that's around the time that Covid hit, right?

5 A. Right.

6 Q. And that was because you yourself did not want to be
7 around people and working with a bunch of people around that
8 time, correct?

9 A. Correct.

10 Q. Okay. And also to be fair, your job opportunities are
11 limited due to being a convicted felon, correct?

12 A. Yes.

13 Q. Okay. All right. Now, we also heard some testimony
14 about physical injuries that you are asking the jury to
15 compensate you for. Is that correct?

16 A. Yes.

17 Q. Okay. Now, today, as we sit here today, you're
18 alleging that you have physical injuries that you're claiming
19 from these incidents; is that correct?

20 A. Well, I don't have them right now.

21 Q. You had -- I apologize. That was a bad question.

22 You had physical injuries from these incidents; is
23 that correct?

24 A. Right.

25 Q. Okay. Now, again, do you recall giving your deposition

1 in this case? Is that correct?

2 A. Yes.

3 MS. ROTHERMICH: And I'm going to put up, again,
4 just so that she can see it and I can see it --

5 BY MS. ROTHERMICH:

6 Q. Again, you were under oath; is that right?

7 A. Yes.

8 Q. Okay. Hold on. Wrong page. All right. So as long as
9 you can see this, I'm going to ask you to take a look at Page
10 71, Line 12. Are you there?

11 A. Yes.

12 Q. Okay. Question: "Do you have any physical injuries
13 from the incidents with Mr. Bearden in Chillicothe?"

14 Line 14, answer: Witness shakes head.

15 Question: "No?"

16 Answer: "No."

17 And, again, this deposition occurred just last July.
18 Is that correct?

19 A. Yes.

20 Q. Okay. Now, we heard a little bit about emotional
21 damages that you are claiming, as well.

22 A. Uh-huh.

23 Q. Well, let me ask you about your physical damages. So
24 your testimony has changed from your deposition to today; is
25 that accurate?

1 MS. McGRAUGH: Objection, Your Honor. That's
2 misstating the evidence.

3 THE COURT: Sustained.

4 BY MS. ROTHERMICH:

5 Q. Miss Olsen -- or I apologize, Miss Zieser. Your former
6 name was Miss Olsen, correct?

7 A. Yes.

8 Q. Sorry. So I want to kind of go through with you, your
9 testimony is that you have panic attacks when you have to be
10 alone with men; is that correct?

11 A. Yes.

12 Q. Okay. And you're currently married; is that right?

13 A. I am.

14 Q. Okay. You started going to a therapist when you were
15 19 or 20 years old; is that correct?

16 A. It is.

17 Q. And that was for bipolar depression; is that right?

18 A. Yes.

19 Q. And you've been in treatment for substance abuse; is
20 that right?

21 A. Yeah, that's correct.

22 MS. ROTHERMICH: Okay. And I would like to put up
23 Exhibit D31 for the witness to identify. Okay.

24 BY MS. ROTHERMICH:

25 Q. So do you recognize this document as your handwriting?

1 A. I do.

2 Q. Okay. And you recall writing this as part of a
3 treatment program?

4 A. I remember we had to write it. I don't remember
5 writing it, but, yeah.

6 Q. Okay.

7 A. I mean, I'm sure I did. I see it.

8 Q. And that's your handwriting up at the --

9 A. Yes, it is.

10 Q. -- upper -- and it says Ashley Olsen on there.

11 A. It does.

12 Q. And this is a multi-page document. And, actually, we
13 have books over there if you want to look at the whole
14 document.

15 But I'm going to ask you, you know, if you recognize
16 this as your handwriting, that you wrote it, and then I'm going
17 to ask for it to be admitted into evidence. But are the books
18 on the --

19 THE COURT: Is there any objection? Is there any
20 objection to the document?

21 MS. McGRAUGH: Yeah, I don't know that it's been
22 properly authenticated, Your Honor.

23 THE COURT: Okay. Show her the document.

24 MS. ROTHERMICH: Okay. If I may approach.

25 THE COURT: Yes.

1 MS. ROTHERMICH: Thank you.

2 MS. McGRAUGH: Your Honor, I would also object on
3 the grounds of relevancy at this point.

4 THE COURT: Could counsel please approach?

5 (Counsel approached the bench, and the following
6 proceedings were had:)

7 THE COURT: So how is this document relevant?

8 MS. ROTHERMICH: Your Honor, it just talks about her
9 previous life experiences, which would bear on her emotional
10 distress damages.

11 THE COURT: So, to me, you have to ask her about
12 those. If she disagrees or says it's not true, then you can
13 use that to impeach her, but I don't see a basis to introduce
14 it as substantive evidence unless it is somehow relevant to an
15 impeachment issue.

16 MS. McGRAUGH: There's a lot of irrelevant
17 information in there.

18 MS. ROTHERMICH: Okay. I'll ask her the individual
19 questions, then, and then -- so I can have her stop looking at
20 it.

21 MS. McGRAUGH: May I ask if there's a certain
22 portion you're going to ask her about?

23 MS. ROTHERMICH: I mean, the whole thing. I mean,
24 just various things within it.

25 THE COURT: Again, what's the relevance of this?

1 MS. ROTHERMICH: Well, because she has previous life
2 experiences that would bear on her emotional distress.

3 THE COURT: Okay. So you can ask her about previous
4 life experiences that bear on her emotional distress claim.

5 MS. McGRAUGH: Right. But from the letter?
6 Shouldn't she be given an opportunity to give those answers
7 before a letter is -- it violates --

8 MS. ROTHERMICH: I think she overruled -- I think
9 she sustained your objection.

10 THE COURT: Ask the questions. There's not an
11 objection -- you can ask questions about life experiences, and
12 then I'll take up any objections to those questions. I can't
13 predict what the answer to any not-yet-lodged objections to
14 not-yet-asked questions are.

15 (The following proceedings were had in open court:)

16 BY MS. ROTHERMICH:

17 Q. Okay. Sorry about that. So, Miss Zieser, you said
18 that -- or you were raised in Chicago; is that correct?

19 A. Yes.

20 Q. Until you were about 13 years old.

21 A. Yes.

22 Q. All right. Your parents divorced when you were about
23 two years old; is that correct?

24 A. Correct.

25 Q. You have no contact with your father; is that right?

1 A. Right.

2 MS. McGRAUGH: Your Honor, I am going to object on
3 the grounds of relevancy. This doesn't go to the purported
4 reason for the letter, which is her mental health experiences.

5 THE COURT: The objection at this point is
6 overruled. I do think your questions need to become a little
7 bit more focused to the topic that is relevant.

8 MS. ROTHERMICH: Thank you.

9 BY MS. ROTHERMICH:

10 Q. Okay. And you experienced childhood abuse from your
11 mother; is that correct?

12 A. I did.

13 Q. Okay. You testified earlier that you have trouble
14 being intimate with your husband; is that right?

15 A. I did.

16 Q. And you have a ten-month-old child; is that right?

17 A. We do.

18 Q. You have three other children; is that correct?

19 A. Yes.

20 Q. The two older children don't live with you; is that
21 right?

22 A. No, they don't.

23 Q. They live with their father's parents, correct?

24 A. Yes, they do.

25 Q. The father of the two older children was murdered; is

1 that correct?

2 A. Yes, he was.

3 Q. And that was a very traumatic experience for you; is
4 that right?

5 A. Yes, it was.

6 Q. You had been together with him since you were very
7 young; is that right?

8 A. Yes.

9 Q. Okay. And I'm not trying to -- but the murder is still
10 not solved, correct?

11 A. That is correct.

12 Q. And his parents, who adopted --

13 MS. McGRAUGH: Objection, Your Honor, relevancy.
14 May we approach?

15 THE COURT: Yes.

16 (Counsel approached the bench, and the following
17 proceedings were had:)

18 MS. McGRAUGH: There was a theory at one point that
19 Miss Zieser was the person who killed her husband. She's never
20 been investigated, she's never been proven to have done it.

21 THE COURT: So, yeah, are you going down that line
22 of questioning?

23 MS. ROTHERMICH: Well, I mean, to the extent that
24 she's trying to get emotional distress damages from that.

25 THE COURT: We're not getting into allegations that

1 she committed murder. The objection is sustained.

2 (The following proceedings were had in open court:)

3 BY MS. ROTHERMICH:

4 Q. And before you went into the -- in the Missouri
5 Department of Corrections, you had some serious problems with
6 anxiety and depression; is that right?

7 A. I believe so, yes.

8 Q. Okay. And before prison, you were dealing with serious
9 substance abuse issues, correct?

10 A. Yes.

11 Q. You said you were doing meth, correct?

12 A. Yes.

13 Q. And that was on a daily basis; is that right?

14 A. Yes.

15 Q. And you were also in an abusive relationship with a
16 boyfriend, correct?

17 A. I was.

18 Q. He beat you up in front of your children; is that
19 right?

20 A. He did.

21 Q. And he threatened to kill you if you didn't drop out of
22 school; is that right?

23 A. He did.

24 Q. And there were other incidents besides that one
25 incident like that in your relationship with him; is that

1 correct?

2 A. That's correct.

3 Q. Okay. And, again, you're remarried now?

4 A. I am.

5 Q. And your husband is not abusive to you now.

6 A. No, he's not. He's wonderful.

7 Q. Okay. Now, I just wanted to talk a little bit about
8 how you know some of the other plaintiffs.

9 A. Okay.

10 Q. You said -- or you knew Lynnsey Christie, or now she's
11 known as Lynnsey Betz, already before you filed the lawsuit,
12 correct?

13 A. I'd seen her. We don't really know each other like
14 that, though. I seen her in the prison. When I used to go
15 down to cosmetology to get my hair done, she was always down
16 there.

17 Q. That was actually my next question to you. So you
18 would see her when you were in cosmetology, correct?

19 A. Yes.

20 Q. And was she -- you would get your hair done while you
21 were down there, correct?

22 A. Uh-huh.

23 Q. And you would talk with her while you got your hair
24 done?

25 A. Sometimes if she was up there talking, but usually she

1 was back there working.

2 Q. Okay.

3 A. I would get my hair done by other girls.

4 Q. Okay. And you would also do Zumba together; is that
5 right?

6 A. Yes, she was in the Zumba classes.

7 Q. Okay. And Miss Karen Keil was the teacher of that
8 Zumba class; is that right?

9 A. Sometimes.

10 Q. Okay. And you also said -- or let me ask this. I
11 mean, Zumba is a class, a group fitness class in the prison,
12 correct?

13 A. Uh-huh.

14 Q. In the rec area; is that accurate?

15 A. Yes, it is.

16 Q. Okay. And they have music going during that class; is
17 that right?

18 A. Right.

19 Q. Okay. And it's kind of fun; is that fair?

20 A. Yes, it was very fun.

21 Q. Okay. And you would chat with the ladies at your Zumba
22 class before and after class; is that fair?

23 A. Sometimes, yeah.

24 Q. Okay. And I think you testified earlier that Miss Keil
25 was also your personal trainer; is that correct?

1 A. Well, she just did the Insanity, which it was -- the
2 whole rec gym, they shut down the whole rec gym to do it, and
3 she -- her and three other instructors were up there doing it,
4 so it was her and three other instructors: Maya -- who else?
5 I can't remember them all. I mean, I know them too, but I
6 don't know know them.

7 Q. Okay. And Insanity is another type of group fitness
8 class, I'm assuming; is that correct?

9 A. Correct.

10 Q. Okay. And again, fun; is that correct?

11 A. Yes.

12 Q. Okay. And you said you lost a bunch of weight from it;
13 is that right?

14 A. I did.

15 Q. Okay. And, again, you would chat before or after class
16 with the people in Insanity; is that correct?

17 A. Right.

18 Q. And I think you already testified you communicated with
19 Mrs. Keil, even when she got out of the facility; is that
20 correct?

21 A. I did.

22 Q. Okay. And you called her --

23 A. I did.

24 Q. -- after you found out that she was filing this
25 lawsuit, correct?

1 A. Yes. Yes, I did.

2 MS. ROTHERMICH: I have nothing further.

3 THE COURT: Any redirect?

4 MS. McGRAUGH: No, Your Honor.

5 THE COURT: Thank you, ma'am. You may step down.

6 Could counsel please approach?

7 (Counsel approached the bench, and the following
8 proceedings were had:)

9 THE COURT: So given the fact that it's a quarter
10 till 5:00, if we were to break for the evening now, could we
11 still -- would we still be on schedule to finish Thursday
12 afternoon?

13 MS. McGRAUGH: Yes.

14 (The Court conferred privately with court staff.)

15 THE COURT: Oh, yes, we need to have the witness
16 back up. We didn't have the jury ask any questions, so I'll
17 ask her to come back up. And then, so we'll be fine to stay on
18 track to be finished by Thursday?

19 MS. McGRAUGH: Yes, ma'am.

20 THE COURT: Okay.

21 (The following proceedings were had in open court:)

22 THE COURT: Ma'am, I apologize. I'm going to ask
23 that you take the stand again. I forgot, we give the jury the
24 opportunity to ask written questions.

25 So if you have any questions of this juror, I would

1 ask that you write them -- of this witness, write them on the
2 cards that you have with you. I would ask that everyone turn a
3 card in, because then if there's only one card and only one
4 question, then other jurors have felt self-conscious because
5 everyone knows they asked the question. I will ask the
6 questions of the witness, and then the attorneys will have a
7 brief opportunity to ask any follow-up questions.

8 So we'll take a couple of seconds. If you have a
9 questions, if you could write them down on the note cards that
10 were provided to you, I would appreciate it.

11 Could counsel please approach?

12 (Counsel approached the bench, and the following
13 proceedings were had:)

14 THE COURT: One question is, "How long have you had
15 suicidal thoughts?" Any objection to that question?

16 MS. McGRAUGH: No.

17 THE COURT: Any objection?

18 MS. ROTHERMICH: No.

19 THE COURT: "Was there a criminal case against
20 Edward Bearden?"

21 MS. McGRAUGH: They just don't give up.

22 THE COURT: I'm not going to ask that question.

23 MS. ROTHERMICH: Okay.

24 THE COURT: "Were there cameras stationed in the
25 hallways that led to the closets where you were abused?"

1 MS. McGRAUGH: I'm sorry?

2 THE COURT: "Were there cameras stationed in the
3 hallways that led to the closets where you were abused?"

4 MS. McGRAUGH: She can answer if she knows. No
5 objection.

6 MS. ROTHERMICH: She can answer if she remembers.

7 THE COURT: I don't know what this question says.
8 "Opening statements, thought on her transferred out Saturday,
9 not for sure." I'll open up that for any --

10 MS. ROTHERMICH: I don't think that opening
11 statements can be evidence, so I would -- I don't know.

12 MS. McGRAUGH: I object because I don't --

13 THE COURT: If you want to clear it up on a future
14 witness.

15 Okay. Thank you. That's all.

16 (The following proceedings were had in open court:)

17 THE COURT: So, ma'am, I have two questions for you,
18 and then the attorneys can ask, if they want, brief follow-up
19 questions.

20 - - -

21 EXAMINATION

22 By the Court:

23 Q. How long have you had suicidal thoughts?

24 A. After I got out, after it all happened, it was on and
25 off for a couple of years.

1 Q. And when you say got out, you mean got out of
2 Chillicothe?

3 A. Prison.

4 Q. The Chillicothe facility?

5 A. Yes.

6 Q. Next question is, were there cameras stationed in the
7 hallways that led to the closets where you were abused?

8 A. I don't believe so, no.

9 THE COURT: Thank you. Ms. McGraugh, do you have
10 any follow-up questions?

11 MS. McGRAUGH: No, ma'am.

12 THE COURT: Does counsel for defendant have any
13 follow-up questions?

14 MS. ROTHERMICH: I do. I have one, Your Honor.

15 - - -

16 FURTHER CROSS-EXAMINATION

17 By Ms. Rothermich:

18 Q. Miss Zieser, I just had a quick follow-up question from
19 that. You had suicidal thoughts before you went to prison; is
20 that accurate?

21 A. Not really, no. I've never really been too suicidal.
22 These thoughts never really happened -- they never were serious
23 suicidal thoughts until afterwards.

24 MS. ROTHERMICH: Thank you.

25 THE COURT: Thank you, ma'am. Now you may step

1 down.

2 So, ladies and gentlemen, we're going to go ahead
3 and break for the day. The attorneys have assured me that by
4 breaking a few minutes early, we will still be on schedule to
5 finish this at the time that we indicated earlier today.

6 So now you're going to leave, and you're going to
7 have access to your phone, and you're going to go home, and
8 you're going to be tempted to talk to your spouse, your
9 neighbor, your dog, get on your iPad and do some internet
10 searches, and this is going to be one of the many times that I
11 really honestly beg you to resist that urge.

12 As you can see by the number of times that I
13 highlight this, one of the really core, basic provisions of our
14 system is that you make a decision based on the evidence that
15 you hear in this courtroom. And it's unfair to both parties if
16 you do your own investigation, your own research, especially
17 research that they don't know anything about.

18 So I would just ask that tonight you put this out of
19 your mind, you resist any urge to do any Google searches and,
20 heaven forbid, any posting about the case, and come back
21 tomorrow with a fresh mind and an open mind.

22 We will be in recess, then, until 9 a.m. tomorrow.

23 (The following proceedings were had in the courtroom
24 out of the presence of the jury:)

25 THE COURT: So I just want to -- Shauna is the

1 keeper of the exhibit list, so I don't want to make any
2 decisions regarding the exhibits, but I would like the parties
3 to discuss Exhibit No. 19 because it's a little unclear from
4 the exhibit list what's been admitted because we only have
5 Defendant's Exhibit 19, not A, B, and C. If the parties could
6 agree to just admitting all of 19, then we could indicate that
7 on the exhibit list. If not, we'll have to make some
8 modifications.

9 So I don't, again, want to do anything right now
10 because Shauna needs to be present when any decision of that
11 sort is going to be made. Again, like I said, I would ask that
12 the parties discuss the witness -- or the exhibit list and, to
13 the extent possible, agree on admission of exhibits as is
14 possible.

15 Is there anything I can take up before we resume
16 tomorrow?

17 MR. TAULBEE: Nothing for defendant, Your Honor.

18 MS. McGRAUGH: Nothing for plaintiffs.

19 THE COURT: Then I would ask that everyone be here
20 at 8:30 tomorrow in the event that that changes and there is
21 something that you would like to discuss; but, otherwise, have
22 a good evening.

23 (Trial adjourned for the evening.)

24 - - -

25 - - -

CERTIFICATE

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

June 27, 2022

/s/ _____
Kathleen M. Wirt, RDR, CRR
U.S. Court Reporter